



LOP Cohort Analysis

Executive Office for Immigration Review
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EXECUTIVE SUMMARY

The Executive Office for Immigration Review (EOIR) conducted an analysis comparing multiple key performance metrics between respondents who participated in EOIR's general Legal Orientation Program (LOP) and those who did not. The LOP provides information to detained immigrants about their rights and the immigration court process so that they can make informed decisions about their legal cases.¹ Within EOIR, the LOP is administered by the Office of Legal Access Programs (OLAP). In fulfillment of the LOP, representatives from non-profit organizations provide information about immigration court procedures and other basic legal information to predominantly detained individuals in facilities operated by the Department of Homeland Security (DHS).² The LOP offers the following services to detained individuals:

- **Group Orientation:** An interactive general overview of immigration removal proceedings, forms of relief, and an opportunity to ask general questions.
- **Individual Orientation:** Unrepresented individuals can briefly discuss their cases with experienced LOP providers and pose more specific questions.
- **Self-Help Workshops:** Those with potential for relief or those who wish to voluntarily depart the country are provided guidance on specific topics (e.g., how to complete an asylum application or prepare for a bond hearing) and given self-help legal materials.
- **Individual Referrals to Pro Bono Legal Services**

Using the data available to EOIR, EOIR developed a quantitative analysis that measures performance and operations in the following high-level areas:

1. Length of Stay at Detention Facilities³
2. Respondent Representation Rates
3. Proceeding Outcomes
4. Proceeding Length and Case⁴ Length
5. Number of EOIR Hearings
6. Likelihood of Proceeding⁵ and Case⁶ Completions
7. Adjournments and Adjournment Attribution

¹ <https://www.justice.gov/eoir/legal-orientation-program>

² The LOP may occasionally assist non-detained respondents. This analysis focuses on detained and released respondents.

³ Length of stay for each respondent was calculated with data sourced from EOIR court staff data entry and Form I-830, *Notice to EOIR: Alien Address*. As Phase I was being finalized for release, DHS provided EOIR with potentially more granularly precise data, including book-in and book-out dates. Accordingly, EOIR intends to re-run any Phase I analysis related to the detention data using the DHS data and will publish those results once available.

⁴ A “case” is defined as a collection of “proceedings,” during which hearings are conducted and an immigration judge makes a ruling. Cases may have multiple proceedings, and proceedings can have multiple hearings. At the proceeding level, immigration judges may make decisions that result in a completed case, such as a grant of relief or removal order, or a decision that results in the creation of a new proceeding, such as a Change of Venue (COV).

⁵ Completed proceedings were those which had a completion date and a decision recorded that was not a COV, transfer, or administrative closure.

⁶ Completed cases were those where the last proceeding had a completion date and a decision recorded that was not a COV, transfer, or administrative closure.



KEY TAKEAWAYS

The following are key takeaways from the LOP Cohort Analysis Phase I over the Fiscal Year (FY) 2013 to FY 2017 timeframe:

1. **LOP participants had longer detention stays which increased costs to the federal government.** On average LOP participants spent 25 more days per respondent in DHS custody than non-LOP participants. EOIR estimates that the longer average detention stays of LOP participants cost the federal government an estimated \$3,100⁷ more per respondent from FY 2013 to FY 2017 than non-LOP participants.⁸ This results in an estimated \$40 million per year in additional housing costs to the federal government.⁹
2. **LOP respondents were less likely to obtain representation during their case history than non-LOP respondents.** From FY 2013 to FY 2017 LOP respondents were five percent less likely than non-LOP respondents to have representation at any time in their case histories.
3. **Proceeding outcomes between LOP and non-LOP respondents do not vary greatly.** LOP participants with a detained custody status have slightly higher likelihoods of being granted relief than non-LOP participants. Conversely, LOP participants with a released custody status have slightly lower likelihoods of being granted relief and slightly higher likelihoods of being issued a removal order than non-LOP participants.
4. **LOP respondents had longer proceedings and cases.** For both detained and released respondents, LOP respondents had longer case lengths and proceeding lengths beginning in each year from FY 2013 through FY 2017.
5. **LOP respondents had slightly more hearings.** Respondents who participated in the LOP had an average of 0.3 more master calendar hearings and 0.1 more individual merits hearings compared to respondents who did not participate in the LOP.
6. **LOP and non-LOP participants were about equally likely to have their cases and proceedings completed by June 2018.** Of all cases and proceedings initiated from FY 2013 through FY 2017, the cases and proceedings of detained LOP respondents and non-LOP respondents were completed at about the same rate. Released LOP respondents were slightly less likely to have their cases completed if they were initiated in recent fiscal years.
7. **Hearing location, custody status, and other factors were found to be statistically significant for certain findings.** EOIR found these factors to have significant impacts on some of the performance metrics in this paper, suggesting that they may also be primary drivers of particular findings in each section. Using regression analyses, EOIR determined that even when evaluated separately (holding the remaining factors constant), each of these factors independently may potentially impact the findings.

⁷ A table with yearly funding information for the LOP program is provided in Appendix A.

⁸ Detention length was calculated using EOIR's CASE (Case Access System for EOIR) data. EOIR detention data is not mandatory and must be entered manually. The cost of detention is generated from DHS budgets. More accurate detention length and detention costs data could impact the findings in this section, and EOIR intends to re-run any Phase I analysis related to the detention data using DHS data. More information on how detention length and cost was calculated for LOP and non-LOP participants is included in the "Length of Stay at Detention Facilities" section.

⁹ Roughly 43 percent of LOP respondents and 46 percent of non-LOP respondents had complete detention dates recorded in the available data and were therefore included in this portion of the analysis.



THE THREE PHASES OF THE LOP COHORT ANALYSIS

EOIR commenced a review of the general LOP in November 2017. Due to heightened interest in the review by Congress and the public beginning in April 2018, EOIR determined that the review should be broken into three phases to ensure that reliable findings were delivered to the Department of Justice, Congress, and the public in a timely manner. Phase I focuses on comparing LOP and non-LOP participants across multiple, relevant measurements of EOIR operations. Phase II broadens the analysis from Phase I to include more operations. Phase III focuses on the Immigration Court Helpdesk Program, which has not been evaluated since its launch in 2016.

The following provides a brief description of each phase of the analysis and estimated timeframe for completion.

Phase I of the LOP Cohort Analysis analyzes several measurements of EOIR court operations. Across LOP and non-LOP participants, the paper compares detention length, representation rates, the number of EOIR hearings, time in EOIR proceedings, likelihood of completion, adjournment attributions, and case outcomes. Phase I is included in this report.

Phase II of the LOP Cohort Analysis builds upon Phase I by providing additional measurements of EOIR operations. Across the same LOP and non-LOP cohorts evaluated in Phase I, the Phase II analysis compares hearing durations, relief sought, and any relationships between the two. Additionally, Phase II will show the distribution of when in the course of their proceedings LOP participants received their LOP service. Phase II is tentatively expected to be completed by the end of September 2018.

Phase III is an analysis of the Immigration Court Helpdesk (ICH), which educates non-detained immigrants in removal (deportation) proceedings and court processes. The goal of ICH is to help individuals make informed decisions about their legal cases and, in doing so, improve the efficiency and effectiveness of immigration court proceedings. Phase III will look into whether the ICH can be related to any costs or savings to the federal government and evaluate the effectiveness of the program in relation to its stated goals. Phase III is tentatively expected to be completed by the end of October 2018.



INTRODUCTION AND BACKGROUND

In the following report, EOIR compares multiple key performance metrics between respondents who participated in the LOP and those who did not. Phase I of this study is limited to EOIR's general LOP for detained aliens and does not include the four other legal orientation programs administered by EOIR. This study was conducted by a team consisting of both contractors and career federal employees within EOIR's Planning, Analysis, and Statistics Division (PASD), all of whom are trained analysts, statisticians, or operations researchers. PASD neither oversees the LOP, nor is it involved in EOIR's administration of legal orientation programs; consequently, it provided an independent analysis of the LOP with no stake in the outcome. A prior study regarding the LOP was conducted in 2012 by a single EOIR employee, who was neither an analyst, statistician, nor operations researcher and who directly oversaw the administration and continuation of the LOP. Although the 2012 study, issued in a report entitled "Legal Orientation Program Cost Savings Analysis – April 2012," was reviewed at the time by other individuals within EOIR and the Department of Justice, PASD was not provided with the detailed methodology used in connection with the data underlying the 2012 report and, therefore, could not replicate it or its findings. EOIR no longer relies on the robustness of the 2012 study in assessing the LOP and, accordingly, is performing an updated, independent analysis to assess the efficacy of the LOP.

In carrying out this most recent study, EOIR requested data from the LOP contractor and from DHS that it believed would make the study more analytically robust. Although the LOP contractor provided much of the data requested, certain datasets were not provided for a variety of reasons, including that the data was unavailable or not tracked by the contractor. DHS also did not provide data requested by EOIR until Phase I was being finalized. Although EOIR developed alternative methodologies to account for the data not received and is confident in its methodologies, the inclusion of this additional data could have made the study more robust and could potentially have affected its conclusions. Thus, EOIR will re-run the relevant analyses using DHS detention data. Similarly, the LOP contractor has indicated that it is conducting its own internal study of the general LOP, but has not provided the complete results of that study to EOIR at the time of the completion of Phase I.

This study does not address several LOP-related legal and policy issues that are beyond its scope, including whether the LOP should be continued in its present form, modified, or terminated. For example, this study does not assess whether LOP programs are most effective within EOIR or would be more effective within another federal agency or within another component of the Department of Justice. Additionally, it does not address any legal considerations associated with the LOP. For instance, the current Blanket Purchase Agreement (BPA) governing the provision of general LOP services was signed by the Department of Justice and LOP contractor in May 2017.¹⁰ That BPA included a provision allowing for the possibility of direct legal representation funded by the BPA as part of the general LOP,¹¹ though it also requires the LOP contractor to state at the beginning of each group or individual

¹⁰ Through a BPA, the Department of Justice's Justice Management Division enters into a cooperative agreement with the primary LOP contractor for general LOP services. EOIR's OLAP Director serves as the Contracting Officer's Representative (COR) and administers the LOP.

¹¹ On July 25, 2018, the Department of Justice and the LOP contractor agreed to remove the language allowing for the possibility of direct legal representation through the general LOP from the BPA.



presentation that the presenter is not the attorney nor representative of the detained aliens. According to EOIR's OLAP, the LOP contractor has asserted attorney-client privilege in declining to provide certain data about group and individual presentations to EOIR that was requested to conduct this quantitative analysis. Whether taxpayer-funded legal representation has been provided under the auspices of the general LOP in contravention of 8 U.S.C. § 1362 and whether LOP providers established attorney-client relationships with the detained aliens to whom they provided presentations in conflict with the BPA are legal and factual questions that are far beyond the purview of this analysis.

For the last three fiscal years, LOP has been funded at \$8.024 million annually.¹² A table with yearly funding for LOP is provided in Appendix A of the LOP Cohort Analysis, but the cost of funding LOP itself was not considered in this analysis. Additionally, some of the information that LOP provides to detained aliens may be duplicative of the information immigration judges (IJs) are required to provide to detained aliens under applicable federal regulations; however, quantifying the costs of this duplication is difficult to model. Accordingly, those costs were also not included in this study. Including any costs surrounding LOP funding or court operational redundancies, however, would likely increase the overall cost to the government in this analysis.

In 2016, the same EOIR/PASD contractor who assisted in conducting this study also conducted the Legal Case Study, which required the EOIR contractor to develop objective and standard measures of judicial and court staff workload and to formulate a mathematical model to inform the staffing of EOIR's immigration courts. Although this proprietary model was the primary purpose of the Legal Case Study, EOIR also required that the study include the "identification of process changes that would enable EOIR to complete cases more efficiently without compromising fairness." To address this requirement, the contractor provided a series of qualitative recommendations based on interviews and observations conducted during the course of the study. The qualitative portion of the study reflected commentary and feedback from individuals and observations of court operations and hearings across 18 EOIR courts conducted over four months in the spring and summer of 2016. Those courts were selected by EOIR management at the time and did not necessarily reflect a representative sample of courts nationwide.¹³ Further, the qualitative portion of the study included interviews with not only court personnel, but also with external entities including adversarial parties and advocacy organizations whose interests are not necessarily convergent with those of EOIR. One of the non-staffing recommendations in the Legal Case Study based on this qualitative process was to consider expanding programs such as the LOP through "data-informed" requests and justifications. This analysis is a follow-up study to the Legal Case Study recommendation and provides a "data-informed" quantitative assessment of the operational impacts associated with the LOP using the data that was available to EOIR.

¹² The estimated aggregate value of all task orders to be issued under the BPA for all LOP programs is \$100,000,000 for the entire term of the BPA, which is up to five years. That number is not a maximum ceiling amount and may be exceeded at the discretion of the Government on a unilateral basis.

¹³ Although EOIR operated courts in 29 states and territories in 2016, the qualitative portion of the study included courts operating in only eight states. The study did not include immigration courts in the Midwest, the Mountain West, the Northwest, and the Southeast, nor did it include courts operating in a majority of the federal circuits that review immigration court decisions.



PHASE I ANALYSIS

EOIR generated this analysis based on over 155,000 LOP-participant respondents (representing over 830,000 hearings) from FY 2013 to FY 2017, and compared them to the over 350,000 respondents (representing over 1.5 million hearings) who were detained or released and were not involved with the LOP program.¹⁴ Previous analysis has shown that the hearing location, base city, circuit, and custody status are statistically significant with many of the metrics presented in this analysis. EOIR therefore also performed regression analyses on the metrics used in the paper to control for the effect of hearing location and respondent custody status to verify the relationship between LOP participation in each metric. The trends observed as a result of the regression analyses were included towards the end of each section.

LENGTH OF STAY AT DETENTION FACILITIES

Holding respondents in detention for extended periods of time increases costs across the federal government, and for DHS in particular. EOIR did not have access to primary detention information (book-in and book-out dates) from DHS for this analysis. In lieu of primary data from DHS, EOIR used detention information found in the EOIR database. EOIR only included respondents with full and complete detention history (both a detained and released date in EOIR's database) for the detention length analysis and, therefore, analyzed a subset of the LOP and non-LOP cohort populations included in the rest of the analysis.¹⁵

EOIR found that:

- Respondents who have been through the LOP program stay in detention longer than respondents who have not been through the LOP program, with LOP respondents averaging 72 days in detention and non-LOP respondents averaging 47 days in detention.
- LOP participants on average spent 25 more days in detention than non-LOP participants, which results in an estimated additional \$3,100 in detention costs per LOP respondent.¹⁶

¹⁴ EOIR uses input date as the parameter to determine proceedings from FY 2013 to FY 2017. Input date is also used to identify, group, and measure cases or proceedings because input date is system generated at the proceeding level. Input date can be combined with proceeding generation to determine the first and last proceedings in a case (and, thereby, the overall case length). Additionally, EOIR's standard reporting practice is to measure cases or proceedings considering the entire adjudication lifecycle, including case processing time outside of hearings. Using Initial Master Calendar Hearing (IMCH) Dates does not include the time between receipt and hearing, which is usually when LOP services are received. However, as a quality control measure EOIR generated findings using both the Notice to Appear (NTA) received date as a parameter of case initiation within FY 2013 and FY 2017, and, alternatively, the IMCH date as a parameter of case initiation. Using these different dates as case initiation dates did not significantly alter EOIR's findings using the input date.

¹⁵ For purposes of this analysis, EOIR possessed complete detention data for 67,000 LOP participants and 161,000 non-LOP participants. Differences between EOIR detention data and DHS detention data may not be equally distributed by hearing location and, thus, may ultimately impact EOIR findings upon receipt of DHS data. For this reason, the study did not perform a regression analysis in this section. As indicated EOIR will re-run any relevant analyses now that it has been provided DHS detention data.

¹⁶ The DHS FY 2016 and FY 2017 Congressional Budget Justifications were used to determine the average cost of an adult detention bed per night for FY 2013 to FY 2016. For FY 2017, DHS provided the cost of an adult detention bed as of the end



Note that other internal, external, and DHS-related factors may also contribute to detention length. For example, EOIR found that at each hearing location, there is significant variation in the number of days LOP and non-LOP respondents stay in detention; thus, hearing location may be an important factor for detention length. Further, EOIR also found that slight differences in adjournments to file asylum applications may impact the length of stay, with six percent of LOP participants requesting this adjournment and four percent of non-LOP participants making this request.

Table 1. Average Detention Length (Days) and Costs (Dollars) from FY 2013 to FY 2017^{17,18}

Fiscal Year of Receipt	Average Detention Length (Days) per Respondent and Cost				
	Detention Length per Respondent			Detention Cost	
	LOP	Non-LOP	Difference (LOP - Non-LOP)	Average Detention Cost Added per LOP Respondent (\$)	Total Cost Added by LOP Respondents (\$)
2013	64	36	28	\$3,400	\$42,000,000
2014	69	42	26	\$3,200	\$38,000,000
2015	73	52	21	\$2,600	\$32,000,000
2016	74	53	21	\$2,800	\$42,000,000
2017	78	50	28	\$3,600	\$46,000,000
Average	72	47	25	\$3,100 ¹⁹	\$40,000,000

Note that the average detention length for both respondent types grew year over year except for non-LOP participants in FY 2017.²⁰

REPRESENTATION RATES

EOIR also evaluated whether LOP participants have greater rates of representation. EOIR analyzed those respondents who were detained or released from FY 2013 to FY 2017 and determined whether a respondent had an attorney at any point in his or her case history.²¹ From FY 2013 to FY 2017, LOP

of FY 2017's 3rd quarter. More granular detention cost information from DHS could improve the robustness of the study, and the level of detail of costs could potentially change EOIR's findings.

¹⁷ Fiscal Year represents the input date of a respondent's NTA.

¹⁸ See Appendix A for the average cost of detaining an adult per day from DHS Congressional Budget Justifications (FY 2013 – FY 2016) and as provided by DHS (FY 2017). Note that average length of stay calculations are rounded to the nearest whole number for the purposes of presentation.

¹⁹ Due to rounding, the five-year average of the rounded costs displayed in the table will not necessarily equal the total average displayed. This number is a rounding of the actual total average cost.

²⁰ This shorter detention length in FY 2017 for non-LOP participants may be a product of data lag or incomplete proceedings that affect the custody data.

²¹ The representation rate analysis included both respondents with completed and pending cases.



respondents were five percent less likely than non-LOP respondents to have representation, which is shown in Table 2. below.

Table 2. Percent of Respondents with an Attorney at Any Point in their Case History from FY 2013 to FY 2017²²

Fiscal Year of Receipt	Percent of Respondents with an Attorney at Any Point in their Case History	
	LOP participants	Non-LOP participants
2013	46%	53%
2014	46%	52%
2015	53%	56%
2016	56%	58%
2017	51%	55%
Total	50%	55%

EOIR conducted a regression analysis to account for the hearing location, fiscal year the Notice to Appear (NTA) was received for the respondent's initial proceeding, and the custody status of the respondent. The analysis revealed that non-LOP respondents were still more likely to have an attorney even when accounting for those factors.

PROCEEDING OUTCOMES²³

The findings in Table 3 suggest that detained LOP participants have a slightly higher likelihood of being granted relief and lower likelihood of being issued a removal order than detained non-LOP participants.

Table 3. Proceeding Outcomes for Detained Proceedings, FY 2013 to FY 2017²⁴

Proceeding Outcomes for Detained Proceedings		
Decision	LOP Participants	Non-LOP Participants
Relief Granted	8.25%	6.33%
Remove	75.64%	77.86%
Terminated	2.06%	2.52%
Voluntary Departure	13.38%	12.87%
Other	0.60%	0.34%

²² Fiscal Year is determined by receipt date of the first NTA associated with the respondent.

²³ Proceeding outcomes are independent decisions made by immigration judges; therefore, they do not necessarily have a direct relationship to the LOP. This section simply provides analytical observations regarding proceeding outcomes for LOP and non-LOP participants and does not prescribe any conclusions about the relationship between outcomes and particular policy or operational decisions.

²⁴ Terminated decisions include decisions labeled "Prosecutorial Discretion-Terminated." Other decisions include only decisions marked as "Other."



When LOP participants are released, they have a slightly lower likelihood of being granted relief than released non-LOP participants and a higher likelihood of being issued a removal order than non-LOP participants, as demonstrated in Table 4.

Table 4. Proceeding Outcomes for Released Proceedings, FY 2013 to FY 2017

Proceeding Outcomes for Released Proceedings		
Decision	LOP Participants	Non-LOP Participants
Relief Granted	12.10%	12.42%
Remove	67.19%	59.64%
Terminated	9.47%	15.97%
Voluntary Departure	10.34%	10.92%
Other	0.43%	0.47%

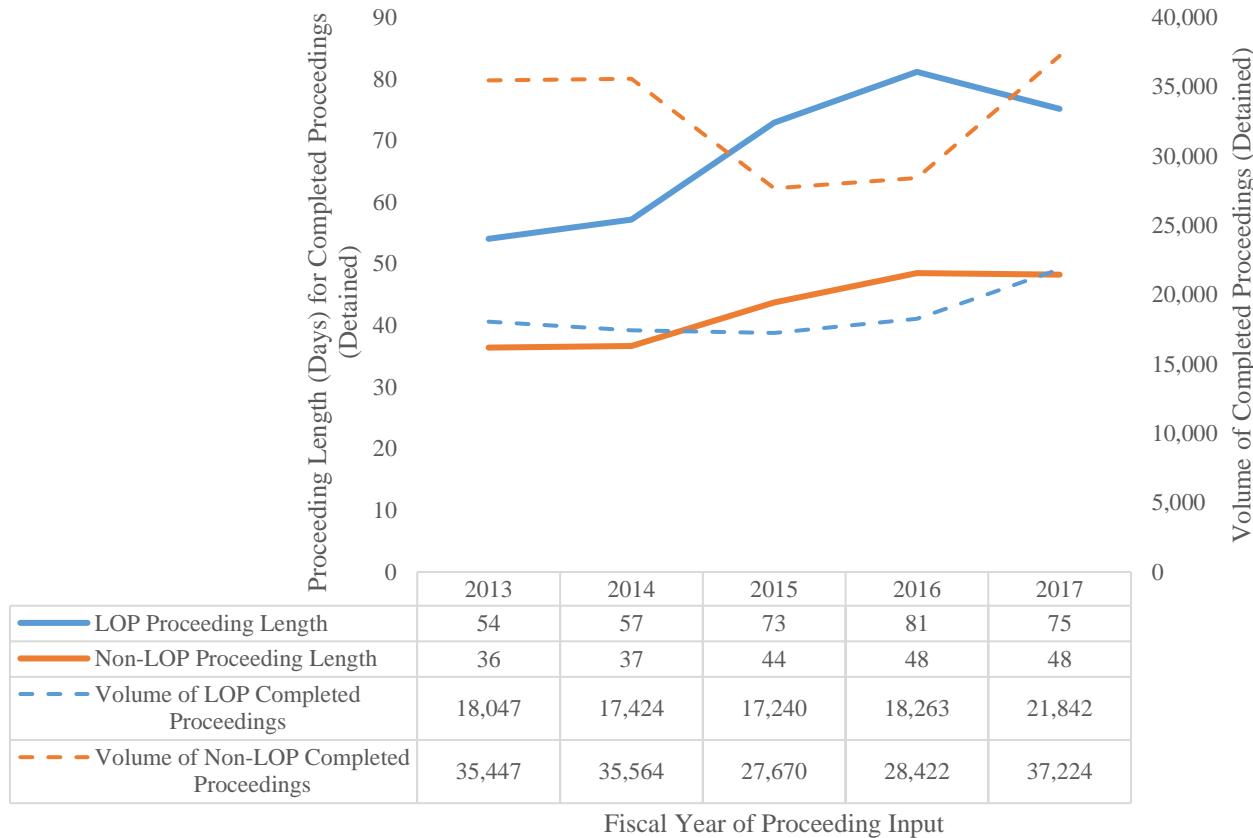
AVERAGE LENGTH OF PROCEEDING

EOIR found that completed proceedings²⁵ for detained LOP participants took, on average, 25 days longer than those of detained non-LOP participants, as found in Figure 1. The results corroborate the findings in previous sections, which found that detention length per respondent was similarly longer for LOP participants and that LOP respondents were slightly less likely to have their proceedings completed in recent fiscal years.

²⁵ Completed proceedings were those which had a completion date and a decision recorded that was not a COV, transfer, or administrative closure.



Figure 1. Average Proceeding Length (Days) from FY 2013 to FY 2017 for Detained Respondents



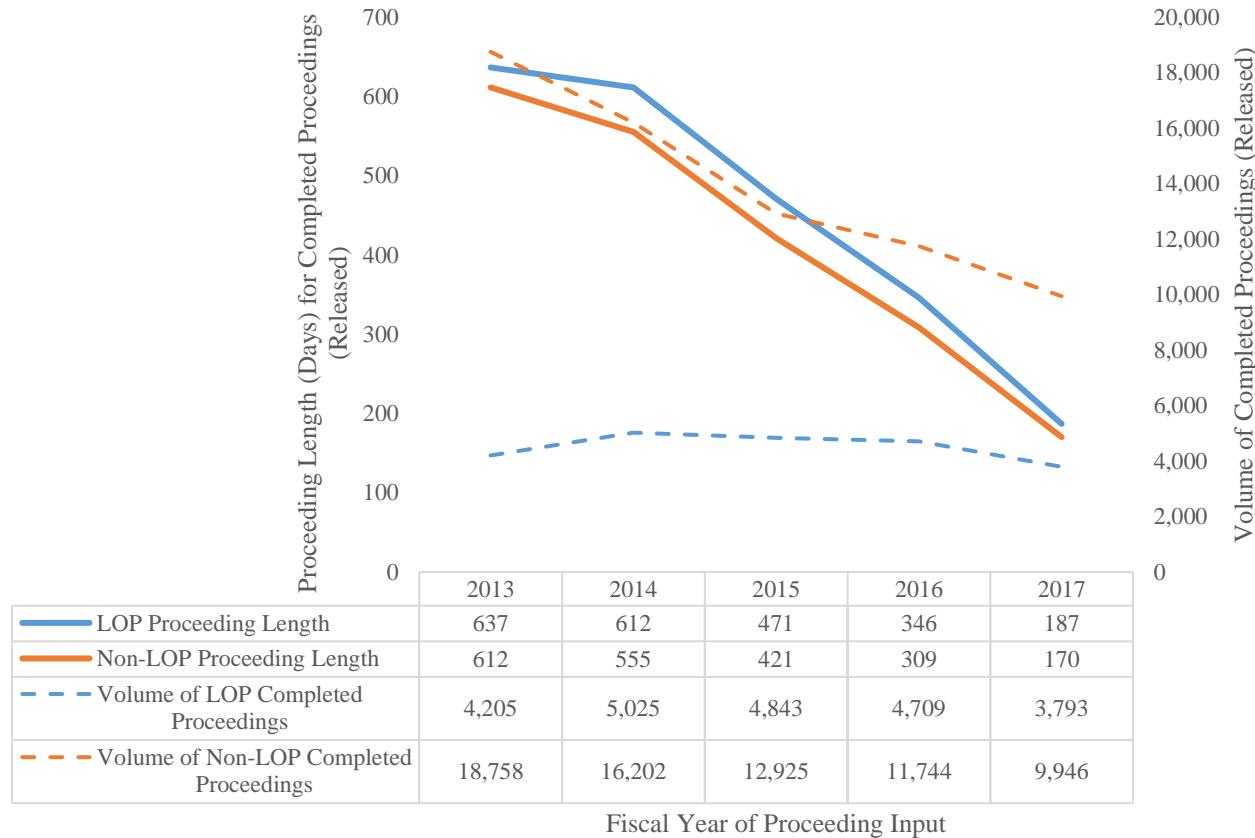
EOIR conducted a regression analysis to account for the hearing location and custody status of the respondent and found that LOP respondents still had longer proceeding lengths than their non-LOP counterparts, which confirms the trends seen in Figure 1.

EOIR also found that, similar to detained respondents, released LOP participants had consistently higher proceeding lengths than released non-LOP participants for receipts originating in the same year. Two other trends of note are:

1. The proportion of LOP proceedings out of all proceedings increased from 27 percent to 33 percent between FY 2013 and FY 2017.
2. As shown in Figure 2, completed proceeding lengths for more recent receipts are shorter due to the necessarily shorter time horizon between receipt and the final date of the analysis. There is a significant amount of proceedings initiated in recent years that were or will be completed after the date of data extraction for the Phase I analysis. While the volume of non-LOP proceedings fluctuates in each FY studied, the number of LOP proceedings steadily increases.



Figure 2. Average Proceeding Length (Days) from FY 2013 to FY 2017 for Released Respondents



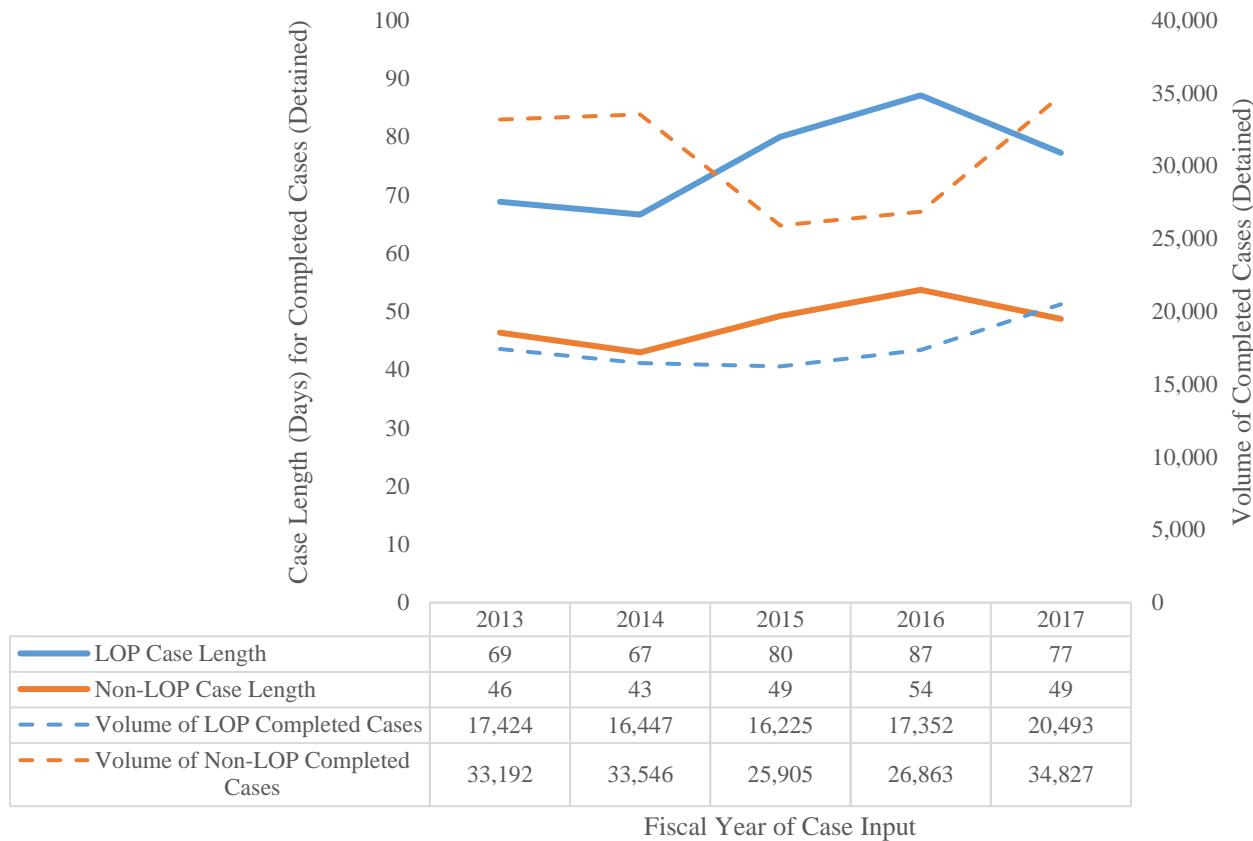
AVERAGE LENGTH OF CASE

EOIR found that detained and released LOP respondents had longer case lengths for completed cases²⁶ initiated from FY 2013 to FY 2017 than detained and released non-LOP participants, respectively. These trends are shown in Figures 3 and 4 and mirror the results seen for proceeding lengths.

²⁶ Completed cases were those where the last proceeding had a completion date and a decision recorded that was not a COV, transfer, or administrative closure.



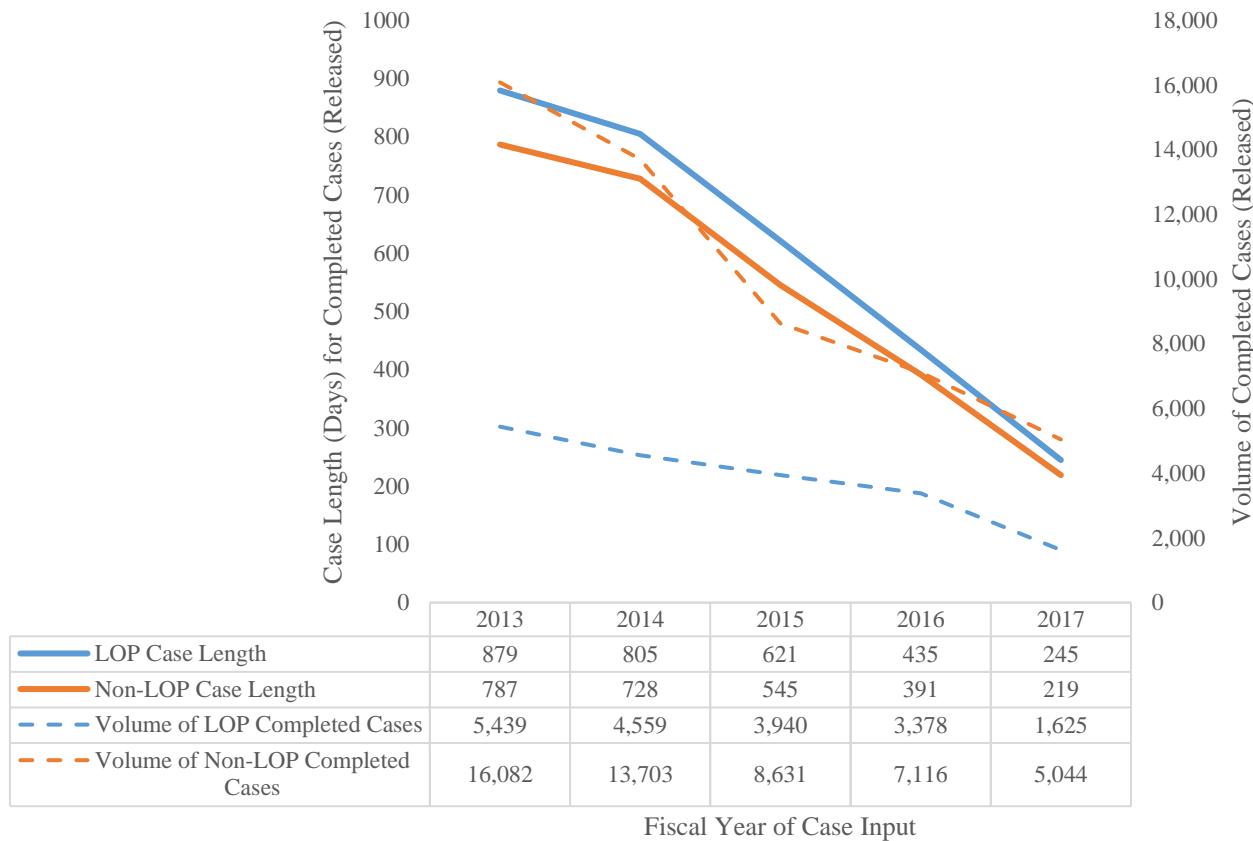
Figure 3. Average Case Length from FY 2013 to FY 2017 for Detained Respondents



The average difference between LOP and non-LOP case length was 28 days for detained respondents and 63 days for released respondents. While the volume of non-LOP proceedings fluctuates in each FY studied, the number of LOP proceedings steadily increases. EOIR also conducted a regression analysis that revealed that the hearing location of a case (whether at the hearing location, base city, or circuit level) had more of an impact on case length than whether or not the respondent had received the services of the LOP program.



Figure 4. Average Case Length from FY 2013 to FY 2017 for Released Respondents



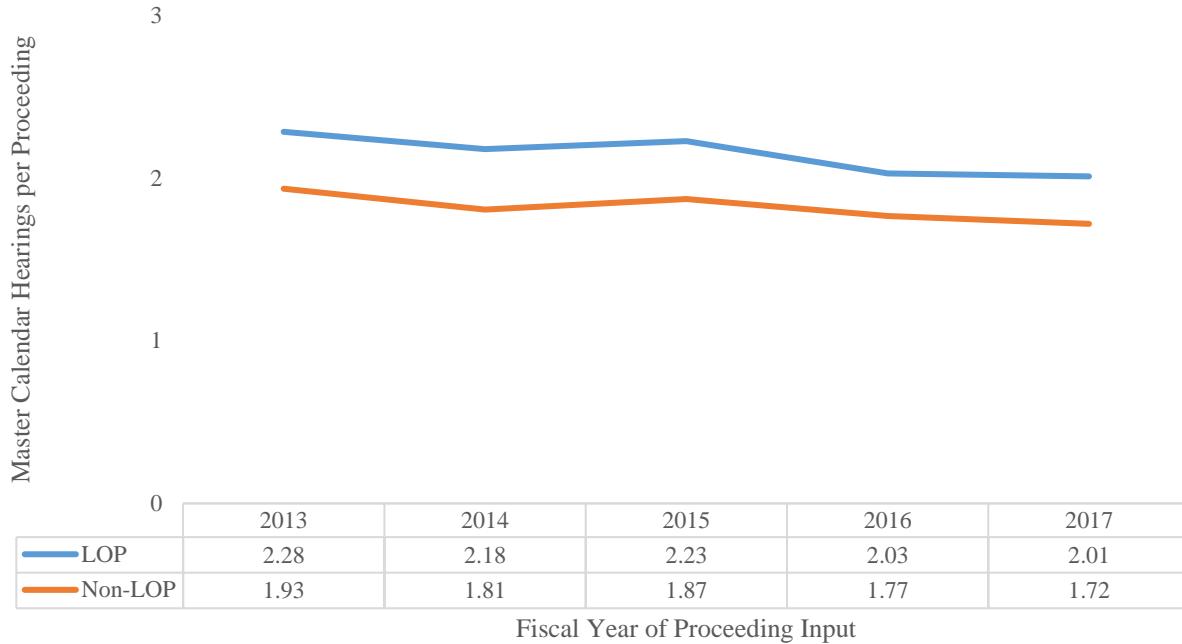
EOIR HEARINGS (MASTER CALENDAR, INDIVIDUAL, CUSTODY)

EOIR considers the number of hearings per proceeding a measure of operational performance. This analysis compares the number of master calendar, individual (merits), and custody hearings between LOP participants and those who did not participate in the LOP. An increased number of hearings may lead to increased proceeding length for a respondent, although there are a variety of factors such as custody status (detained or released), case type, and scheduling that may also influence proceeding length. EOIR found that respondents who participated in the LOP had on average 0.3 more master calendar hearings per proceeding than respondents who did not participate in the LOP.

Figure 5 below demonstrates the consistent difference in hearings between LOP and non-LOP participants across the five year period.



Figure 5. Master Calendar Hearings per Proceeding²⁷



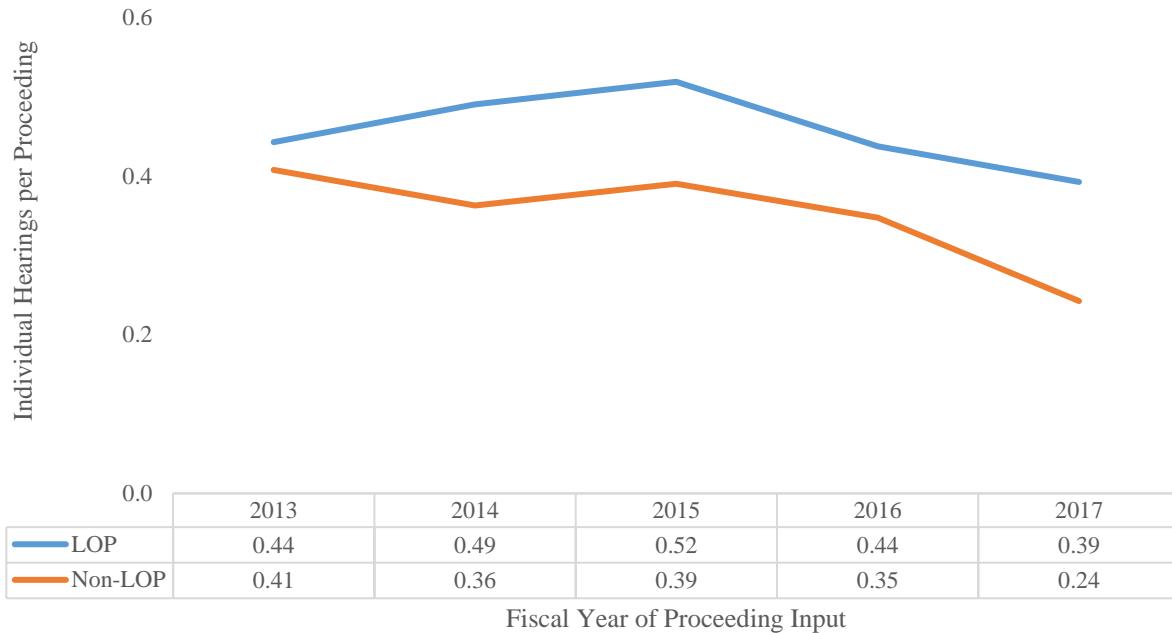
Individual hearings (merits hearings) usually take longer than master calendar hearings. EOIR found that:

- Proceedings involving LOP participants are more likely to progress to a merits hearing (26 percent of LOP participants and 20 percent of non-LOP participants).
- LOP participants had slightly more merits hearings per respondent than non-LOP participants (average of 0.10 more from FY 2013 through FY 2017).

²⁷ This graphic, and all subsequent graphics relating to hearing counts, include all proceedings.



Figure 6. Individual Calendar Hearings per Proceeding



Using CASE data, EOIR determined that LOP participation and hearing location influenced the number of master and merits hearings per proceeding. When the effect of the LOP program on a proceeding was isolated from the effect of which hearing location the proceeding was held at, the group of individuals who participated in the LOP had a greater number of both masters and merits hearings per proceeding.

EOIR also evaluated custody hearings to ensure that all hearing types are taken into account and to check for any potential relationships between the number of custody hearings per proceeding (regardless of custody status) and the length of stay in DHS detention facilities. EOIR found that:

- For every year between FY 2013 and FY 2017, detained LOP participants had more custody hearings per respondent than detained non-LOP participants.
- However, the difference between LOP and non-LOP custody hearings per proceeding was never larger than 0.2 hearings per proceedings and decreased in all of the fiscal years studied.



Table 5. Custody Hearings per Proceeding

Fiscal Year of Receipt	Custody Hearings		
	LOP Participants	Non-LOP Participants	Difference
2013	0.50	0.31	0.20
2014	0.45	0.33	0.12
2015	0.57	0.44	0.13
2016	0.52	0.39	0.12
2017 ²⁸	0.54	0.44	0.10
Average	0.52	0.38	0.13

EOIR performed a regression analysis to account for the hearing location, fiscal year of Notice to Appear (NTA) corresponding with the proceeding, and the custody status of the respondent on the number of masters, merits, and custody hearings per proceeding. For all three hearing types, LOP hearings per proceeding were higher than non-LOP hearings per proceeding, which is the same trend seen in Figure 5, Figure 6, and Table 5.

LIKELIHOOD OF PROCEEDING COMPLETION

EOIR evaluated the rate at which proceedings reach completion²⁹ for LOP and non-LOP participants. For both LOP and non-LOP participants, the likelihood of completion decreased annually, due to inherently less time for case maturation. EOIR found that of proceedings initiated between FY 2013 and FY 2017, detained LOP respondents' proceedings were about as likely to be completed by June 2018 as the proceedings of detained non-LOP respondents. There was also little variation in likelihood of completion between fiscal years of when the proceeding was initiated.

Table 6. Likelihood that a Proceeding from FY 2013 to FY 2017³⁰ of a Detained Respondent has Reached Completion

Fiscal Year of Receipt	Likelihood that the Proceeding of a Detained Respondent has Reached Completion		
	LOP Participants	Non-LOP Participants	Difference
2013	100%	100%	0%
2014	100%	100%	0%
2015	100%	100%	0%
2016	100%	100%	0%
2017	99%	99%	0%

²⁸ The FY 2017 numbers may be lower than expected due to the fact that proceedings have only had time to extend through June 2018, which means proceedings initiated in the most recent fiscal year are disproportionately limited by the length of potential proceedings.

²⁹ Completed proceedings were those which had a completion date and a decision recorded that was not a COV, transfer, or administrative closure.

³⁰ Fiscal Year is determined by input date of the NTA.



Consistent across both detained and released respondents, the likelihood of completion does not change greatly across LOP participants and non-LOP participants.

Table 7. Likelihood that a Proceeding from FY 2013 to FY 2017³¹ of a Released Respondent has Reached Completion

Fiscal Year of Receipt	Likelihood that the Proceeding of a Released Respondent has Reached Completion		
	LOP Participants	Non-LOP Participants	Difference
2013	67%	68%	-1%
2014	59%	59%	0%
2015	49%	51%	-2%
2016	35%	39%	-5%
2017	24%	26%	-2%

LIKELIHOOD OF CASE COMPLETION

Similar to proceedings, EOIR also measured the rate at which cases for LOP participants and non-LOP participants reached completion.³² EOIR found that for both detained and released respondents, of cases initiated between FY 2013 and FY 2017, LOP respondents' cases were completed at similar rates to non-LOP respondents' cases. There was no differentiating trend between detained LOP and non-LOP participants in likelihood of case completion.

Table 8. Likelihood that a Case from FY 2013 to FY 2017³³ has Reached Completion for Detained Respondents

Fiscal Year of Receipt	Likelihood that the Case Involving a Detained Respondent has Reached Completion		
	LOP Participants	Non-LOP Participants	Difference
2013	100%	100%	0%
2014	100%	100%	0%
2015	100%	100%	0%
2016	100%	100%	0%
2017	99%	99%	0%

Released respondents who participated in the LOP were slightly less likely to have their cases completed in recent fiscal years than released respondents who did not participate in the LOP, with LOP cases four and three percent less likely to be completed in FY 2016 and FY 2017.

³¹ Fiscal Year is determined by input date of the NTA.

³² Completed cases were those where the last proceeding had a completion date and a decision recorded that was not a COV, transfer, or administrative closure.

³³ Fiscal Year is determined by the input date corresponding to the initial proceeding in the case.



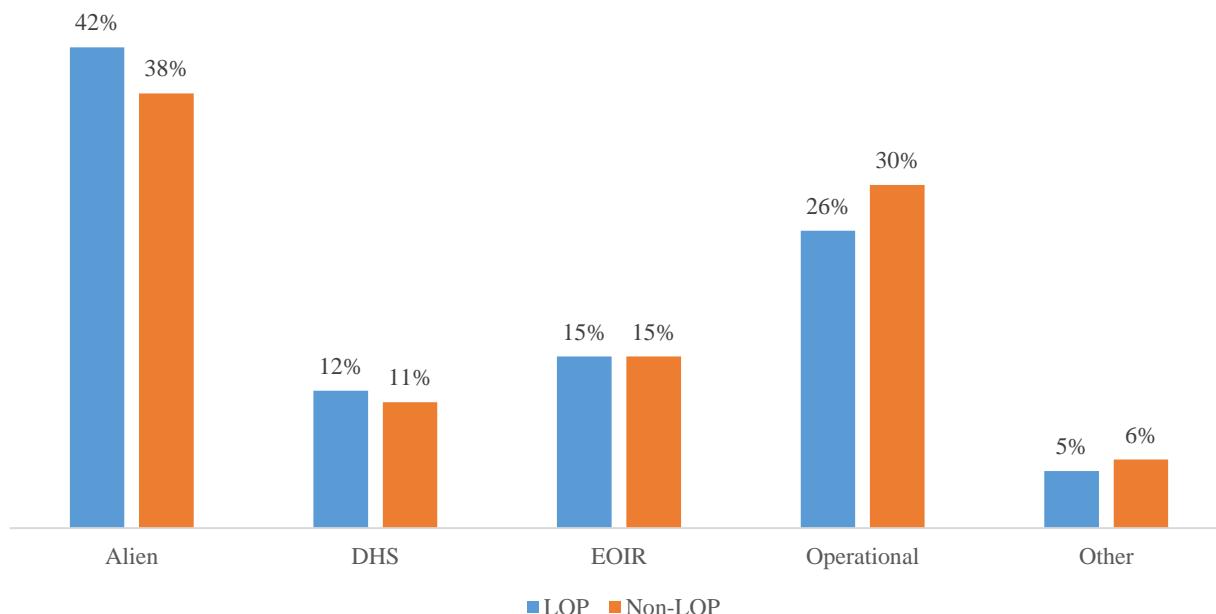
Table 9. Likelihood that a Case from FY 2013 to FY 2017³⁴ has Reached Completion for Released Respondents

Fiscal Year of Receipt	Likelihood that a Case Involving a Released Respondent has Reached Completion		
	LOP Participants	Non-LOP Participants	Difference
2013	60%	60%	0%
2014	50%	49%	1%
2015	40%	42%	-2%
2016	26%	30%	-4%
2017	20%	23%	-3%

ADJOURNMENTS AND ADJOURNMENT ATTRIBUTION

Repeated adjournments add additional hearings to a case.³⁵ Across both LOP and non-LOP participants, EOIR evaluated adjournment types and the parties to which adjournments are attributed.³⁶

Figure 7. Adjournment Attributions from FY 2013 to FY 2017



³⁴ Fiscal Year is determined by the input date corresponding to the initial proceeding in the case.

³⁵ The adjournments and adjournment attribution analysis included respondents with both completed and pending cases.

³⁶ EOIR used the attributions for each adjournment code that are defined in Operating Policies and Procedures

Memorandum (OPPM) 18-02 “Definitions and Use of Adjournment, Call-Up, and Case Identification Codes.” A full list of adjournments and their attribution categorization is available here: <https://www.justice.gov/eoir/oppm-log>



The clearest delineation between LOP participants' and non-LOP participants' adjournments is that hearings involving LOP participants have more adjournments due to the respondent (alien).

EOIR also evaluated the difference between hearings for LOP and non-LOP participants that are adjourned for the respondent to receive additional time to acquire representation. From FY 2013 to FY 2017, 11 percent of hearings involving LOP participants were adjourned for such requests, while 9 percent of non-LOP respondents' hearings were adjourned for this reason. EOIR conducted a regression analysis to control for hearing location and custody status of the respondent and these trends continued to hold true.

CONCLUSIONS

To summarize, the LOP program participants in this study were in detention 25 days longer than non-LOP participants, costing the government an additional estimated \$40 million per year. LOP respondents were also less likely to have representation at some point in their case. In terms of time spent in EOIR proceedings, LOP respondents had slightly longer proceedings and cases with 0.3 more master calendar hearings per respondent. Detained LOP participants were slightly more likely to obtain relief from removal compared to detained non-LOP respondents, but released LOP participants were less likely to obtain relief from removal than released non-LOP respondents.



APPENDIX A: ADDITIONAL FINANCIAL DETAILS

From FY 2013 to FY 2017, the general LOP's total funding is below. This funding does not include the Legal Orientation Program for Custodians of Unaccompanied Alien Children, the National Qualified Representative Program, or any other LOP programs administered by OLAP. It also does not include projections of future funding.

Table 10. LOP Funding FY 2013 to FY 2017 in Millions

FY	LOP Funding (in millions)
2013	\$4.54
2014	\$6.61
2015	\$8.024
2016	\$8.024
2017	\$8.024

Below is the average cost of detention for an adult per day, as provided by DHS.

Table 11. Cost of Detaining an Adult Respondent per Day

FY	Cost of Adult Detention per Day
2013	\$118.88
2014	\$121.16
2015	\$121.69
2016	\$128.88
2017	\$127.37



APPENDIX B: PHASE I METHODOLOGY

In this analysis, EOIR considered completed and pending cases³⁷ for detained or released respondents with a proceeding at EOIR between FY 2013 and FY 2017. Completed cases do not include COVs, transfers, or administrative closures. EOIR used this definition of completed proceeding for all points in the study where completed proceedings needed to be identified unless otherwise specified. EOIR considered a respondent released if he or she had a custody status of “released” during any given hearing, even if he or she had a custody status of “detained” at a different hearing. EOIR did not include cases that involved the Institutional Hearing Program, juvenile cases, or zero bonds.

To identify which of these respondents received LOP, EOIR used data provided by the LOP contractor. This data identified all respondents who participated in LOP from FY 2013 to FY 2017 and indicated the LOP service date. Respondents who received the LOP after their last hearing or proceeding completion were removed from the dataset, as well as those that were determined to have received the LOP prior to FY 2013 but not during the study period. EOIR used this data to categorize the respondents in EOIR data as LOP participants or non-LOP participants. This base dataset was used as the starting point for the measures defined in this paper.

LENGTH OF STAY AT DETENTION FACILITIES

EOIR did not have access to DHS’s internal detention length or cost data. Instead, EOIR used detention information from EOIR’s database and DHS costs from DHS Congressional Budget Justifications.

EOIR combined the data indicating LOP participation or non-LOP participation from FY 2013 to FY 2017 with the EOIR detention date(s) and release date(s) for each respondent. EOIR excluded any respondents who began detention before FY 2013 to avoid data quality issues. EOIR identified each respondent’s unique detained date and released date to identify individual detention stays for each respondent. Only cases with a date detained and a released date recorded in EOIR’s system were considered for calculating length of stay. EOIR possessed complete detention data for 67,000 LOP participants and 161,000 non-LOP participants. Detention lengths were assigned a corresponding fiscal year based on the input date of the first NTA associated with a respondent.

EOIR determined the DHS detention bed rate (cost per day per bed) using DHS Congressional Budget Justifications for FY 2013 to FY 2017. For each fiscal year, the average cost in dollars for LOP and non-LOP respondents was calculated by multiplying the average detention stay in days by the average daily bed rate. EOIR then calculated the average cost difference between LOP and non-LOP for each fiscal year.

³⁷ All case types were included throughout the analysis in order to evaluate the overall differences between LOP and non-LOP respondents across the metrics with the exception of the proceeding outcomes section. The proceeding outcomes section only considers removal cases, in order to focus on the case type that makes up 90 percent of the cases included in this analysis. Therefore, in all sections of the analysis, the findings are primarily influenced by respondents in Section 240 removal proceedings. Furthermore, EOIR found the distribution of case types for LOP and non-LOP respondents to be similar.



REPRESENTATION RATES

The times at which a respondent acquires representation can vary throughout the case. Further, EOIR collects attorney information at the case level; therefore, EOIR identifies a respondent as having an attorney at some point during his or her case history. The respondents were grouped by fiscal year of the first proceeding input date. To calculate the representation rate, the number of respondents with representation in each fiscal year was divided by the total number of respondents in that fiscal year.

PROCEEDING OUTCOMES

For completed proceedings in removal cases only, the total number of proceeding outcomes for each decision type was calculated for proceedings with an input date from FY 2013 to FY 2017, excluding COVs, transfers, and administrative closures. The final tables are broken out by custody status for LOP participants and non-LOP participants.

CASE AND PROCEEDING LENGTHS

The average proceeding length, in days, for LOP and non-LOP respondents was calculated by subtracting the proceeding input date from the proceeding completion date. EOIR only considered completed proceedings for this calculation. Then, EOIR averaged the proceeding lengths for each fiscal year of the proceeding input.

The average case length, in days, for LOP and non-LOP respondents was calculated by subtracting the NTA input date corresponding with the initial proceeding in the case from the case completion date. Only completed cases were considered for this calculation. The cases were grouped by the fiscal year of the NTA input date. Then, EOIR averaged the case lengths for each fiscal year.

EOIR HEARINGS PER PROCEEDING

This section of the paper analyzed all hearings for LOP and non-LOP respondents with cases beginning in FY 2013 through FY 2017. EOIR recorded the number of each type of hearing (master calendar, individual, and custody) in each proceeding. EOIR then took the average of the number of each hearing type per proceeding.

EOIR considered a respondent released if they had a custody status of “released” during any given hearing, even if they had a custody status of “detained” at a different hearing. Master and merits hearings per proceeding for detained and released LOP and non-LOP respondents were calculated using the same methodology for hearing type above.

CASE AND PROCEEDING LIKELIHOOD OF COMPLETION

Proceedings were organized into fiscal years by the fiscal year of the proceeding input date. The likelihood that the proceeding reached completion for LOP and non-LOP respondents was calculated by dividing the number of completed proceedings by the total number of proceedings (completed and pending).



Cases were organized into fiscal years by the fiscal year of the NTA input date of the initial proceeding in a case. The likelihood that the case reached completion for LOP and non-LOP respondents was calculated by dividing the number of completed cases by the total number of cases (completed and pending).

ADJOURNMENTS AND ADJOURNMENT ATTRIBUTION

Adjournment reasons and attributions are defined by Operating Policies and Procedures Memorandum 18-02 “Adjournment, Call-Up, and Case ID Codes.” To calculate the percentage of adjournments to provide time to seek representation for LOP and non-LOP respondents, EOIR divided the number of adjournments to seek representation by the total number of adjournments in a given fiscal year.

REGRESSION ANALYSES

EOIR calculated key descriptive characteristics for each of the above measures, including minimum, average, median, and maximum values. These calculations showed that the metrics in this paper tended to have some outliers. For example, a select few proceedings took exceedingly long to complete compared to the majority of proceedings.

In order to account for these outliers, as well as hearing location and custody status, regression analyses were used to isolate and evaluate the LOP’s relationship with court operations.