



## ADDENDUM TO LOP COHORT ANALYSIS, PHASE I: DETENTION LENGTH WITH DHS DATA

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. EOIR completed Phase I of that analysis and presented its results on September 5, 2018.

At the time Phase I began, EOIR did not possess certain detention data from the Department of Homeland Security (DHS) that would have made the analysis of particular questions regarding detention length and cost more robust. As Phase I was being finalized for release, however, DHS provided EOIR with more granularly precise data regarding detention, including book-in and book-out dates. Rather than delay the release of its Phase I findings, EOIR pledged to re-run any Phase I analysis related to the detention data using the DHS data and to publish those results once available. The instant Addendum fulfills that pledge and should be read in concert with the other findings from Phase I.

### 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 was provided DHS detention data for this analysis. EOIR included all respondents with full and complete DHS detention history (both a DHS book-in and book-out date).

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 106 days in detention and non-LOP respondents averaging 76 days in detention.
- LOP participants on average spent 30 more days in detention than non-LOP participants, which results in an estimated additional \$3,700 in detention costs per LOP respondent.<sup>1</sup>

In general, these findings, using more precise data from DHS, confirm and expand similar findings from Phase I using only EOIR data.<sup>2</sup> The specific results are provided in more detail below.

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<sup>1</sup> 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 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.

<sup>2</sup> EOIR's initial findings from Phase I, using only EOIR detention data, indicated that LOP respondents averaged 72 days in detention and non-LOP respondents averaged 47 days in detention. The average of 25 additional days in detention for LOP respondents resulted in an estimated additional \$3,100 in detention costs per LOP respondent.



While analyzing length of stay, EOIR separated detained and released populations, as they have marked differences in length of detention stays for both LOP and non-LOP respondents. For this section, detained respondents are those with full and complete detention history and a custody status of “detained” at all points in their case history, capturing respondents with cases completed while in detention. EOIR considered a respondent released if he or she had a custody status of “released” at any point during the case history, even if there was a custody status of “detained” at other times.

**Table 1. Estimated Total Cost Added by LOP Respondents (Dollars) (Detained and Released)<sup>3</sup>**

<b>Custody Status</b>	<b>Total Cost Added by LOP Respondents</b>
Detained	\$60,000,000
Released	\$43,000,000
<b>Total</b>	<b>\$103,000,000</b>

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.

**Table 2. Average Detention Length (Days) and Costs (Dollars) from FY 2013 to FY 2017 (Detained)<sup>4,5</sup>**

<b>Fiscal Year of Receipt</b>	<b>Average Detention Length (Days) per Respondent and Cost</b>				
	<b>Detention Length per Respondent</b>			<b>Detention Cost</b>	
	<b>LOP</b>	<b>Non-LOP</b>	<b>Difference (LOP - Non-LOP)</b>	<b>Average Detention Cost Added per LOP Respondent (\$)</b>	<b>Total Cost Added by LOP Respondents (\$)</b>
2013	109	86	24	\$2,800	\$42,000,000
2014	116	92	24	\$2,900	\$43,000,000
2015	138	106	32	\$3,900	\$55,000,000
2016	148	109	39	\$5,000	\$76,000,000
2017	131	94	37	\$4,700	\$85,000,000
<b>Average</b>	<b>128</b>	<b>97</b>	<b>31</b>	<b>\$3,900<sup>6</sup></b>	<b>\$60,000,000</b>

<sup>3</sup> The difference in the total cost stems from the expansion of the cohort studied due to the provision of data by DHS.

<sup>4</sup> Fiscal year represents the input date of a respondent’s Notice to Appear.

<sup>5</sup> Note that average length of stay calculations are rounded to the nearest whole number for the purposes of presentation.

<sup>6</sup> 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 rounded average cost across all fiscal years.



Table 3 shows that released respondents have shorter detention stays than detained respondents.

**Table 3. Average Detention Length (Days) and Costs (Dollars) from FY 2013 to FY 2017 (Released)**

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	79	49	31	\$3,600	\$40,000,000
2014	78	51	28	\$3,300	\$37,000,000
2015	82	59	23	\$2,800	\$32,000,000
2016	90	64	26	\$3,400	\$50,000,000
2017	85	51	35	\$4,400	\$55,000,000
<b>Average</b>	<b>83</b>	<b>55</b>	<b>28</b>	<b>\$3,500<sup>7</sup></b>	<b>\$43,000,000</b>

Note that the average detention length for both respondent types grew year over year except for FY 2017, which may be in part due to recency bias.

<sup>7</sup> 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 rounded average cost across all fiscal years.