



# LOP Cohort Analysis: Phase II

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Executive Office for Immigration Review  
January 29, 2019



# EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

LEGAL ORIENTATION PROGRAM:  
LOP COHORT ANALYSIS PHASE II  
January 29, 2019

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## TABLE OF CONTENTS

Executive Summary .....	3
Key Takeaways - Phase II.....	4
Phase II Analysis .....	5
Conclusions.....	9
Appendix A: Phase II Methodology.....	11



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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.<sup>1</sup> Within EOIR, the LOP is administered by the Office of Legal Access Programs (OLAP).

In fulfillment of the LOP, representatives from legal service 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).<sup>2</sup> 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 by comparing LOP participants with those who did not participate in the LOP:

1. Timing of First LOP Service Provided
2. Hearing Duration by Hearing Type
3. Applications per Case<sup>3</sup>
4. Hearing Duration by Application Type

This analysis is a follow-up to the LOP Cohort Analysis Phase I. By analyzing when LOP services are provided, how long hearings last for LOP participants and non-LOP participants, and the difference in applications filed between LOP participants and non-LOP participants, this analysis provides additional metrics to evaluate LOP beyond those presented in Phase I.

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

<sup>2</sup> This analysis focuses on detained and released respondents.

<sup>3</sup> 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).



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## **KEY TAKEAWAYS – PHASE II**

The following are key takeaways from the Phase II analysis over the Fiscal Year (FY) 2013 to FY 2017 timeframe:

- 1. Most LOP participants receive their first LOP service close to their first hearing date.** Seventy-six percent of LOP respondents received their first LOP service prior to their first hearing date.
- 2. LOP participants had marginally longer hearings.** LOP participants' master hearings are nearly the same length as non-LOP participants' master hearings, but the average LOP participants' merits hearing is about nine minutes longer than non-LOP participants'.
- 3. LOP participants were more likely to file applications for relief or protection.** Forty-nine percent of completed removal cases involving LOP participants had an application filed, while forty-three percent of completed removal cases with non-LOP participants had an application filed.
- 4. LOP participants' merits hearings in removal cases are slightly longer if they have filed at least one application.** LOP participants' merits hearings in removal cases with only one application last on average about seven minutes longer than non-LOP participants'. In removal cases with multiple applications, LOP respondents' merits hearings last on average about six minutes longer than non-LOP respondents' merits hearings.
- 5. Hearing location and custody status have an impact on hearing duration and applications filed.** Regression analyses found that while LOP participation does have a relationship with hearing duration and applications filed, so do hearing location and custody status.



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## PHASE II ANALYSIS

EOIR generated this analysis based on over 155,000 LOP participants<sup>4</sup> (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. Similar to Phase I, EOIR performed regression analyses on the metrics in the Phase II analysis to control for the effect of hearing location and respondent custody status and to verify the relationship between LOP participation and each metric.

### TIMING OF FIRST LOP SERVICE PROVIDED

Analyzing the point at which the respondent first received LOP service allows EOIR to better understand if LOP delivers assistance at the onset of a respondent's case. Figure 1 shows when LOP participants received LOP services for the first time, relative to their first hearing date (in days).<sup>5,6</sup> On average, LOP participants received LOP service for the first time seven days prior to their first hearing. The majority (76 percent) of LOP respondents received their first LOP service prior to their first hearing.<sup>7</sup> The remaining 24 percent of LOP participants included in the study received LOP service for the first time sometime before their last hearing. More specifically, 90 percent received their first LOP service by 15 days after their first hearing, and 95 percent received LOP service by 49 days after their first hearing.

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<sup>4</sup> For the purposes of this analysis, respondents who either: 1) first received LOP after their last hearing, regardless of case completion status, or 2) first received LOP after their last proceeding completion, were excluded from this dataset. Of all LOP participants, 95 percent received the LOP prior to their last hearing or last proceeding completion. Five percent (8,000 respondents) received the LOP after their last hearing or proceeding completion and were consequently removed from the analysis.

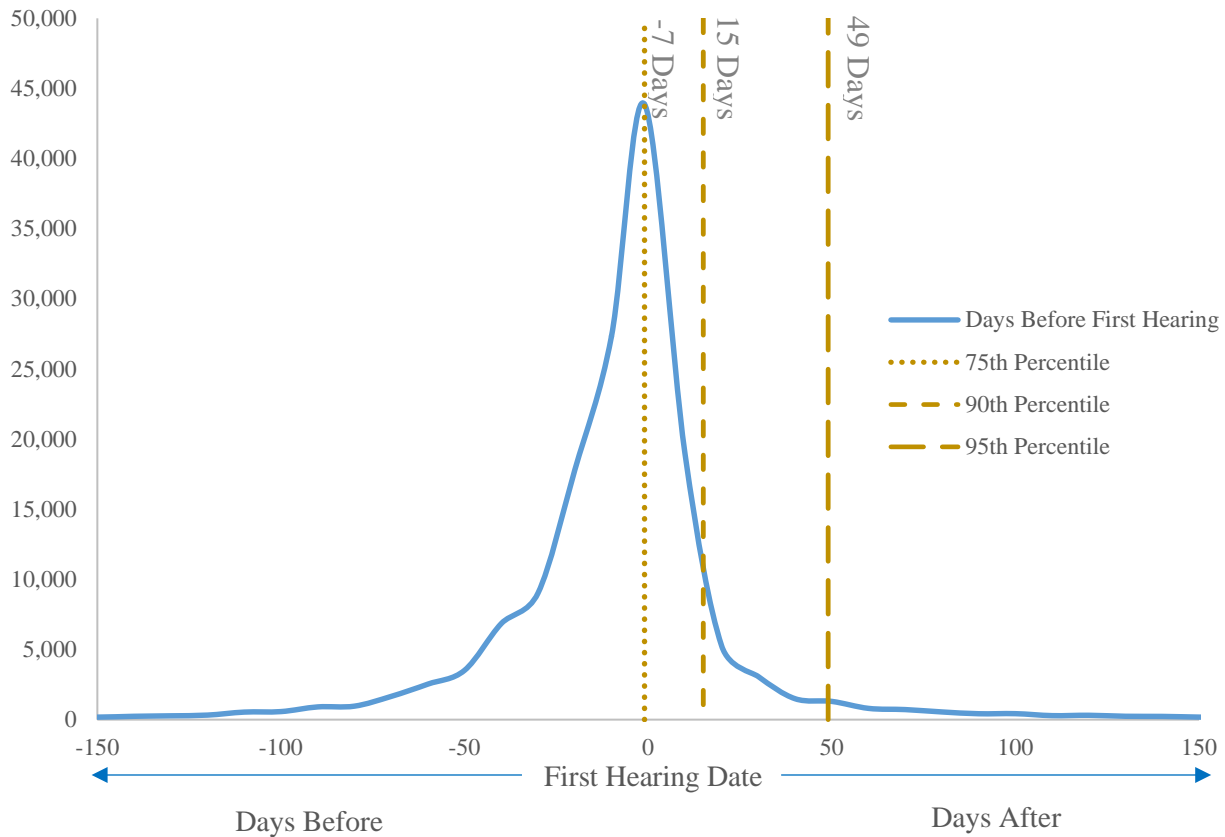
<sup>5</sup> Each respondent's "first hearing" is the first hearing that occurs within his or her first proceeding that is input between FY 2013 and FY 2017.

<sup>6</sup> Each figure in this analysis eliminates outliers. As 96 percent of LOP participants received their first LOP service within 150 days before or after their first hearing, the four percent of respondents who received their first LOP service outside of that range were excluded, allowing for a more robust interpretation less sensitive to outliers.

<sup>7</sup> For those respondents who received LOP more than 50 days prior to their first hearing, this extended time between service and hearing is largely due to proceedings, such as change of venue or transfers, that do not have an associated hearing or adjournment date. These proceedings, therefore, do not appear as hearings prior to the "first hearing." Additionally, variations in docketing practices between courts and case types can result in longer pending periods prior to a hearing.



Figure 1. Days between First Hearing and First LOP Service



### HEARING DURATION BY HEARING TYPE<sup>8</sup>

EOIR evaluated hearing lengths for respondents who had received LOP services prior to a hearing and those who had not. LOP respondents tend to have slightly longer master and individual calendar (merits) hearing durations by both average and median. As shown in Table 1, LOP participants’ master hearings are nearly the same length as non-LOP participants’ master hearings. However, the average merits hearing is little under ten minutes longer for LOP participants than non-LOP participants. Additionally, the average master and merits hearing lengths for both LOP and non-LOP respondents are significantly longer than the median hearing lengths, indicating that there is a small number of hearings that last much longer than the typical hearing.

<sup>8</sup> For this section of the analysis, an LOP hearing is that in which the respondent has received his or her first LOP service prior to the hearing date. For example, if an LOP participant received his or first LOP service one day after his or her first hearing, the first hearing was considered a non-LOP hearing. Note that this section defines LOP and non-LOP participation at the hearing level rather than at the respondent level.



**Table 1. Master and Merits Hearing Durations (Minutes) by LOP Status at Date of Hearing**

Hearing Type	Average Hearing Duration		Median Hearing Duration	
	LOP	Non-LOP	LOP	Non-LOP
Master	7.6	7.5	5.4	5.2
Merits	71.5	62.8	51.4	37.0

When controlling for factors such as hearing location, application type, representation, and custody status, LOP participation still has a small but statistically significant effect on the length of a master calendar and merits hearings.<sup>9</sup>

### APPLICATIONS PER CASE

In this section, EOIR analyzes the number of applications<sup>10</sup> per completed removal case<sup>11</sup> by LOP status.<sup>12</sup> LOP participants<sup>13</sup> were six percent more likely to submit one application in completed removal cases than non-LOP participants and equally as likely to submit multiple applications. Table 2 shows that seven percent more of non-LOP participants did not file any application.

**Table 2. Percentage of Completed Removal Cases by Number of Applications (Detained and Released)**

Number of Applications	LOP	Non-LOP <sup>14</sup>
No Application	51%	58%
One Application	41%	35%
Multiple Applications	8%	8%

As indicated in Table 3, LOP respondents are more likely to have an application filed, regardless of whether the respondent is detained or released. Notably, LOP cases are more likely to have an asylum application filed. The increased likelihood of filing applications, such as an asylum application, for LOP cases may contribute to their longer case lengths and increased likelihood of progression to a merits hearing, which was found in Phase I. Conversely, non-LOP participants were more likely to file no applications in their cases, regardless of custody status. There are no notable differences in applications filed by LOP and non-LOP respondents when looking at 42A Cancellation of Removal,

<sup>9</sup> The additional cost, if any, imposed by longer hearings is beyond the scope of Phase II, but EOIR may evaluate at a future date whether longer hearings lead to increased costs.

<sup>10</sup> Application categories are provided in the table in Appendix A.

<sup>11</sup> 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.

<sup>12</sup> There are 290,000 completed removal cases (212,000 detained and 78,000 released) used to analyze applications for LOP and non-LOP participants.

<sup>13</sup> Consistent with Phase I, the definition of an LOP participant is a respondent who has received LOP service prior to his or her case completion or last hearing.

<sup>14</sup> Due to rounding, these numbers do not sum to 100 percent.



42B Cancellation of Removal, Adjustment of Status, Voluntary Departure, or other applications.<sup>15</sup>

**Table 3. Percentage of Completed Removal Cases with Applications by Custody Status<sup>16</sup>**

Type of Application	Detained Cases		Released Cases	
	LOP	Non-LOP	LOP	Non-LOP
42A	6%	5%	2%	2%
42B	5%	4%	10%	9%
Asylum	23%	15%	41%	34%
Adjustment	1%	1%	2%	3%
No Application	53%	62%	42%	48%
Voluntary Departure	19%	19%	13%	13%
Other	2%	2%	2%	2%

When controlling for custody status and hearing location, regression analyses revealed that LOP status has a statistically significant effect on the types of applications filed in a removal case, except voluntary departure applications. For cases with voluntary departure applications, custody status and hearing location had a statistically significant relationship to the type of application filed, but LOP status did not.

### HEARING DURATION BY APPLICATION TYPE<sup>17</sup>

Merits hearings are longer on average for LOP respondents than non-LOP respondents, regardless of the number of applications filed in the case. These results confirm the analysis found in the hearing duration analysis section of this paper. Of additional note, cases in which multiple applications were filed typically tend to have shorter merits hearings than cases with only one application filed, regardless of custody status. Cases in which multiple applications are filed generally have more hearings than those with one application. The shortest hearing durations were for cases that did not include an application, which was also seen across both custody statuses.<sup>18</sup>

As previously discussed, for all master hearings, regardless of LOP or non-LOP status, there are a small number of hearings that last significantly longer than the average. This trend is demonstrated

<sup>15</sup> Asylum applications throughout the analysis were categorized as asylum, withholding of removal, and withholding or deferral of removal under the Convention Against Torture applications, as found on form I-589. These were also considered to be one application in the corresponding tables.

<sup>16</sup> Columns do not sum to 100 percent, as cases may contain multiple applications, per Table 2.

<sup>17</sup> For this section of the analysis, an LOP hearing is that in which the respondent has received his or her first LOP service prior to the hearing date. For example, if an LOP participant received his or first LOP service one day after his or her first hearing, the first hearing was considered a non-LOP hearing. Note that this section defines LOP and non-LOP participation at the hearing level rather than at the respondent level.

<sup>18</sup> Applications for relief or protection are generally not adjudicated at master hearings and are therefore not analyzed in this section.





again in Table 4, as the average hearing duration, regardless of the number of applications filed or LOP status, is longer than the median hearing duration.

**Table 4. Merits Hearing Duration (Minutes) by Number of Applications in Removal Cases and LOP Status at Date of Hearing**

Number of Applications <sup>19</sup>	Average Hearing Duration		Median Hearing Duration	
	LOP	Non-LOP	LOP	Non-LOP
No Application	34.2	26.5	17.2	13.2
One Application	78.8	71.5	63.8	53.6
Multiple Applications	73.7	67.9	55.5	43.8

For completed removal cases in which only one application was filed, LOP participants had longer merits hearings than non-LOP participants for each application type outside of 42B Cancellation of Removal and Voluntary Departure. Table 5 shows that merits hearings for LOP participant cases with 42B Cancellation of Removal applications were slightly shorter on average than non-LOP participants, while merits hearings in cases with Voluntary Departure applications were nearly the same length (22 minutes) for both LOP and non-LOP participants.

**Table 5. Merits Hearing Duration (Minutes) in Single Application Removal Cases by Type of Application and LOP Status at Date of Hearing**

Type of Application <sup>20</sup>	Average Hearing Duration		Median Hearing Duration	
	LOP	Non-LOP	LOP	Non-LOP
42A	70.5	67.4	55.9	50.9
42B	70.7	71.3	55.0	55.1
Adjustment	53.0	52.9	31.8	27.1
Asylum	84.9	77.2	72.3	61.9
Voluntary Departure	21.9	21.8	13.8	13.9

## CONCLUSIONS

Seventy-six percent of LOP participants receive his or her first LOP service prior to his or her first hearing. The LOP participants in this analysis apply for asylum more frequently and are more likely to submit an application throughout their cases than non-LOP participants. Additionally, merits hearings

<sup>19</sup> The number of applications in the completed removal case for which that merits hearing was held.

<sup>20</sup> Only includes cases where exactly one application was filed.



## **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

LEGAL ORIENTATION PROGRAM:  
LOP COHORT ANALYSIS PHASE II  
January 29, 2019

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for removal cases with zero, one, or multiple applications filed are longer for LOP participants than for non-LOP participants.



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## **APPENDIX A: PHASE II METHODOLOGY**

### **OVERVIEW**

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. This supplemental document summarizes the methodology taken in conducting Phase II of this analysis.

In this analysis, EOIR considered a respondent released if the respondent had a custody status of "released" during any given hearing, even if the respondent 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. Completed cases do not include changes of venue, transfers, or administrative closures. EOIR only considered removal cases when analyzing application data.

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 Fiscal Year (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. For the hearing duration analyses, EOIR defined a hearing as an LOP hearing if the respondent first received the LOP service prior to the hearing adjudication date. This base dataset was used as the starting point for the measures defined in this paper.

### **TIMING OF FIRST LOP SERVICE PROVIDED**

To calculate the days between a respondent's first hearing and his or her first LOP service date, EOIR subtracted his or her first LOP service date from the first hearing date of his or her first proceeding input between FY 2013 and FY 2017.

### **HEARING DURATION BY HEARING TYPE**

The duration of each hearing was developed using data from the Digital Audio Recording (DAR) system, which uses digital audio recording equipment to record audio files and the start and end times of EOIR hearings. Cases were removed that had data entry errors, including: hearings with duplicated recordings, hearings with lengths over nine hours (most likely the result of the DAR system being inadvertently left on), or hearings in which either on-record or off-record time was missing. EOIR calculated the average and median hearing durations for master and individual calendar (merits) hearings, excluding call-up codes (aside from reserved decisions), custody hearings, and *in absentia* hearings, as well as adjournments labeled "Data Entry Error" or related to operational rescheduling.

For this analysis, EOIR analyzed the number of applications filed (by type) per completed removal case. EOIR measured the overall number of applications filed per case, looking at the number of cases with zero, one, or multiple applications by LOP status. Applications filed that were not for asylum, adjustment of status, 42A Cancellation of Removal, Voluntary Departure, or 42B Cancellation of



Removal were recorded in the data as “Other.” The asylum application type used throughout the analysis consisted of asylum, withholding of removal, and withholding or deferral of removal under the Convention Against Torture applications, as found on form I-589. Any combination of the aforementioned I-589 applications was considered a single asylum application when counting the number of applications filed per case.

To measure trends in applications filed, EOIR calculated the totals for each type of application filed, grouping by LOP participation and custody status of the respondent in the case and dividing by the total number of cases within each group.

### HEARING DURATION BY APPLICATION TYPE

To measure the effect of applications on hearing duration, EOIR analyzed hearing durations within completed removal cases with zero, one, or multiple applications. As applications for relief are generally not discussed in master calendar hearings, EOIR considered only merits hearings for this section.

EOIR only considers cases in which all of their proceedings contain a single application type filed. For cases in which a single application was filed, EOIR categorized all merits hearings by application type, grouped by LOP status at the hearing date, and measured the average and median hearing durations for each type and group accordingly.

### 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 outliers. For example, a select few hearings had exceedingly long hearing durations.

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