

# Improving Efficiency and Promoting Justice in the Immigration System

## Lessons from the Legal Orientation Program

Nina Siulc • Zhifen Cheng • Arnold Son • Olga Byrne

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### Program Services

The LOP involves four levels of service:

- > **Group orientations** are presentations by attorneys or paralegals (under attorney supervision) that offer a broad overview of the immigration court process and basic information on relief from removal and ways to expedite the removal process.
- > **Individual orientations** are one-on-one meetings generally following the group orientation. In these meetings, detainees ask LOP attorneys and paralegals more detailed questions about specific defenses and forms of relief from removal, as well as about the court process.
- > **Self-help workshops** are small workshops led by LOP staff for detainees who will be handling their cases *pro se*. In these workshops, individuals can prepare and practice with other persons who will be pursuing similar defenses or applications for relief from removal.
- > **Referrals to *pro bono* attorneys** are made for some detainees who are unable to proceed *pro se* or whose cases could benefit from the assistance of legal representation.

*Since 2005, the Vera Institute of Justice has worked with the Executive Office for Immigration Review (EOIR) and nonprofit legal service providers to carry out the Legal Orientation Program (LOP)—an innovative effort to inform immigrant detainees about their rights, immigration court, and the detention process. This brief highlights key components of Vera’s work on the LOP and shares preliminary findings from our research.*

### RATIONALE FOR THE LOP

Unlike defendants in the criminal justice system, people who are in removal (deportation) proceedings in the U.S. do not have a right to free legal assistance. Those who cannot afford to pay for counsel have two options: either represent themselves (proceed *pro se*) or, in limited circumstances, obtain the services of a free (*pro bono*) attorney. According to EOIR—the Department of Justice agency that runs the nation’s immigration courts—between October 1, 2006, and September 30, 2007, approximately 84 percent of detained respondents with completed immigration court proceedings lacked representation.

For many who face the possibility of removal, the stakes are high: they may have lived in the U.S. for a significant portion of their lives, are U.S. citizens or legal permanent residents, and/or have family members who are U.S. citizens. (In calendar year 2007, for example, LOP providers identified 322 people with potential claims to U.S. citizenship.) Yet, given the complexity of immigration law, few people are prepared to adequately represent themselves. As a result, immigration judges use court time to inform *pro se* respondents of their rights, ensure that they have properly completed required applications, and help them through the complicated removal process. This leads to inefficiencies in immigration proceedings and prolongs the time individuals spend before the court and in detention.

In response, since 2002 Congress has funded the LOP, which seeks to educate detained persons in removal proceedings so they can make more informed decisions, thus increasing efficiencies in the immigration court and detention processes. The LOP provides detained persons with basic information on forms of relief from removal, how to accelerate repatriation through the

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Currently, the LOP is being provided in 12 court locations by nonprofit legal service organizations that work collaboratively with local immigration courts, detention facilities, and ICE.



removal process, how to proceed *pro se*, and how to obtain legal representation. The LOP is designed to provide this information to detained persons prior to the first court hearing in their removal proceedings.

The LOP is offered by nonprofit legal service providers who work collaboratively with local immigration courts, detention facilities, and Immigration and Customs Enforcement (ICE). In 2006, the LOP reached more than 25,000 detainees. From the program's inception in 2003, the program has reached more than 120,000 detained persons.

Since 2005, EOIR has contracted with the Vera Institute of Justice to manage the LOP. Vera subcontracts to nonprofit organizations to provide LOP services, and Vera staff monitor, oversee, and measure the performance of the LOP. As part of its contract, Vera was required to undertake a program evaluation to document LOP services, assess if the LOP is working as intended, determine any impact of the program and the significance and extent of any impact, and make recommendations for ongoing program improvements. This brief summarizes that preliminary evaluation of the LOP.

## PRELIMINARY FINDINGS

In conducting our analysis of the LOP, we identified trends in immigration court data, tracked LOP participants in the immigration courts, compared LOP participants and other detained persons, and conducted qualitative interviews with project stakeholders. This information indicates that the LOP has demonstrated several positive outcomes: faster case times, fewer *in absentia* removal orders, and more effective preparation for participants representing themselves.

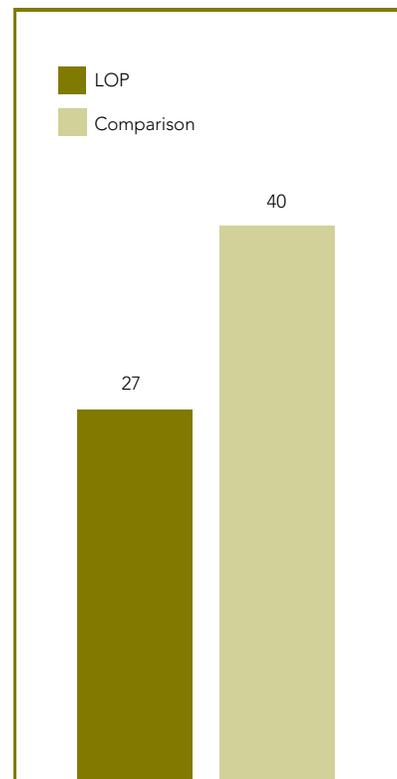
> **LOP PARTICIPANTS MOVE THROUGH THE COURTS FASTER.** Detained LOP participants have immigration court case processing times that are an average of 13 days shorter than cases for detained persons who did not participate in the program. This suggests that the LOP may have important resource-saving benefits for the immigration courts and immigration detention system. The more quickly detained cases are completed, the sooner detained persons are eligible to be released from custody or removed from the U.S. This can free available bed space at detention facilities and substantially reduce costs for the federal government.

> **LOP PARTICIPANTS RECEIVE FEWER *IN ABSENTIA* REMOVAL ORDERS.** Very few detained persons are released on bond or recognizance. However, LOP participants who were released from detention prior to the completion of their immigration court cases appeared for court hearings at greater rates than comparison groups. Unrepresented people who participated in the LOP received 7 percent fewer *in absentia* removal orders than those who did not have access to the program.

Low rates of *in absentia* removal orders were even more pronounced for those who received intensive levels of LOP service (meaning they participated in more than group orientations). Immigration court and enforcement agency stakeholders are concerned with reducing the numbers of persons who receive *in absentia* removal orders.

> **THE LOP CAN EFFECTIVELY PREPARE DETAINED RESPONDENTS TO PROCEED *PRO SE*.** The LOP is not a substitute for legal representation. However, some detained persons who received intensive LOP services (more than group orientations) and represented themselves achieved case outcomes approximating those associated with legal representation. LOP participants who represented themselves were also more likely to receive grants of voluntary departure than detainees who did not participate in the LOP.

Average Overall Case Processing Time in Days



## What do LOP stakeholders think?

To complement our statistical analysis, we conducted qualitative interviews with various LOP stakeholders, including LOP providers, immigration court managers, judges, detention personnel, and people in detention. Highlights of this qualitative analysis are below:

> **Detention facility staff state that the LOP improves detention conditions.** Detention facility employees at LOP sites reported that they have observed a reduction in behavior problems when detainees have access to legal information. They also stated that the LOP makes detention “safer” and “more humane.”

> **Immigration judges state that the LOP increases immigration court efficiency.** Immigration judges at LOP sites report that respondents who have attended the LOP appear in immigration court better prepared and are more likely to be able to identify the relief for which they are statutorily eligible, to not pursue relief for which they are ineligible, and to have a better understanding of the immigration court process, thus helping to improve court efficiencies.

## HISTORY OF THE LEGAL ORIENTATION PROGRAM

**THE PROBLEM:** In the early 1990s, a local immigration judge in Arizona was concerned that some immigrant detainees were at risk of having their statutory rights violated and recognized that *pro bono* attorneys from local firms could help ensure that detainees' rights were protected.

**THE RESPONSE:** The Florence Immigrant and Refugee Rights Project (a current Vera subcontractor) pioneered and refined a service model that encouraged people in detention to play an active role in their own cases, whether or not they were represented by counsel. Rather than focusing their limited resources on representing a small number of detainees, Florence Project attorneys strove to provide all individuals with accurate legal information from which to make more informed decisions about how to proceed with their immigration court cases. The project also worked to dispel common misconceptions about the immigration court process and thus decrease anxiety, confusion, and discomfort about immigration proceedings.

**THE RESEARCH:** A 1992 study by the General Accounting Office concluded that the Florence Project's model resulted in significant time savings for the government because detainees appeared in immigration court already familiar with the removal proceeding process and their eligibility for forms of relief from removal. Evaluations of a subsequent pilot program that reached three of the largest detention centers in the country also demonstrated cost savings and efficiencies in the immigration courts.

**GOVERNMENT FUNDING:** In fiscal year 2002, Congress appropriated \$1 million to develop and implement the LOP model. By fiscal year 2008, the appropriations had increased to \$3.7 million.

### > For More Information...

The **Vera Institute of Justice** is an independent nonprofit organization that combines expertise in research, demonstration projects, and technical assistance to help leaders in government and civil society improve the systems people rely on for justice and safety.

Vera's **Center on Immigration and Justice** collaborates with government, nonprofits, and communities to develop evidence-based justice solutions for systems affecting immigrants and their families and to address the challenges presented by the increasing convergence of the criminal justice and immigration systems.

**For more information** on the LOP or the Center on Immigration and Justice, please e-mail [CJCoordinator@vera.org](mailto:CJCoordinator@vera.org). To download the full report on which this summary is based, *Legal Orientation Program: Evaluation and Performance and Outcome Measurement Reports, Phase II*, visit Vera's web site, [www.vera.org/lopevaluation](http://www.vera.org/lopevaluation).