

# After brief coronavirus closure, Seattle immigration court reopens to backlash

Judges, advocates and even ICE prosecutors all say the coronavirus puts staff and others in harm's way. The feds have reopened immigration courts anyway.

by [Lilly Fowler](#) / March 30, 2020

They say both staff and detainees are at risk of contracting COVID-19 if the courts remain open, including in Seattle and Tacoma.

"It's fair to say that all judges, whether in a detained or undetained setting, are concerned about their own health and that of their family, the health of attorneys for both sides that come before them, as well as the aliens," said Judge Brett M. Parchert, an immigration judge in Seattle who was speaking as the local union representative for the National Association of Immigration Judges.

"We would like for the agency to be more proactive in shutting down the court system to protect everyone's health involved," Parchert said in a recent phone interview.

After closing briefly, the Seattle court reopened Thursday, prompting a backlash, including from Washington state representatives. The DOJ's Executive Office of Immigration Review also reopened a court in New Jersey — another COVID-19 hotspot. [Two ICE detainees in New Jersey have tested positive](#) for the virus.

Mimi Tsankov, eastern region vice president of the National Association of Immigration Judges, said immigration judges have experienced COVID-19 symptoms but are awaiting test results.

The entire court environment, Tsankov argued, is not conducive to health and safety during a pandemic.

"Court staff, private bar attorneys, DHS [Department of Homeland Security] counsel, respondents, contract interpreters, witnesses and others are interfacing with the court while suffering with symptoms and in some cases with COVID-19 positive results," she said.

In reaction to the reopening of the immigration courts in Seattle and New Jersey, Washington state lawmakers, including U.S. Reps. Pramila Jayapal, D-Seattle, and Adam Smith, D-Bellevue, and U.S. Sens. Patty Murray and Maria Cantwell, both Democrats, [wrote in a letter to the federal government on Thursday](#): "As you are well aware, Washington State and New Jersey are under statewide orders to shelter in place. Reopening the courts forces people to make an impossible choice between complying with court requirements and public health guidance to prevent the spread of COVID-19."

They noted that the order would require nonprofits and law firms across two severely impacted regions to send people back to work and bring in clients to prepare court filings.

In a statement on Friday about the court's reopening, Mayor Jenny Durkan said: "This is both a public health violation and a human rights issue. It is reckless and irresponsible for the Trump administration to allow immigration courts to operate despite an active pandemic and multiple states' orders for residents to stay at home."

Parchert said the reopening of the immigration court in downtown Seattle took everyone “a little bit by surprise.” Lawyers and clients have complained that the primary way they are finding out about court closures and openings is through Twitter and Facebook posts, forcing everyone to scramble.

“Most judges are not on Twitter, so we have had to learn, for example, to Google ‘DOJ EOIR’ and ‘Twitter’ to try to obtain information about the status of other courts, as well as an indication if the life or safety of colleagues may have been compromised,” Parchert said.

The Justice Department's Executive Office of Immigration Review did not respond to emails requesting comment.

Parchert explained the reopening of the immigration court in Seattle is limited, but that staff members had been told on March 17 they would not be returning for at least 14 days.

The Seattle court is currently set to resume hearings April 13, which many consider worrisome. Parchert said clients travel from all over the state — Yakima, Walla Walla and other places — to attend hearings at the court. Courtrooms are small and crowded, all factors that could make the spreading of COVID-19 likely.

Parchert also pointed out that many immigration judges across the country fall into the at-risk category with regard to COVID-19.

“The natural part of being a judge is that you’re a little older,” said the 52-year-old Parchert, noting lawyers need years of experience before being promoted to the position.

Although immigration advocates have long been concerned with a backlog of cases — [about 15,000 immigration cases are currently pending in](#)

[Washington state](#) — Parchert said the first priority should be everyone's safety, even if the closures make the mountain of cases worse.

"Judges by their very nature tend to be Type A personalities," Parchert said. "That does add to the stress," he said, referring to the backlog of cases.

"But the stress is secondary to the current pandemic," he added.

Immigration lawyers say they are unable to adequately prepare for their cases under current circumstances.

Tim Warden-Hertz, directing attorney with the Northwest Immigrant Rights Project in Tacoma, said although the courtroom at the ICE detention center there is doing as much as possible remotely, with lawyers calling in or using video, he remains worried about staff and detainees.

Detainees deemed mentally incompetent, for example, have to show up to court in person.

The biggest issue, Warden-Hertz said, is the inability to confidentially prepare clients for court.

In-person attorney visits at the detention center currently happen in an open hallway and behind glass, making it easy for anyone in the same space to overhear conversations. Also, the fact that only one person at a time can be on the phone with the detainee sitting behind the glass makes it impossible to work with language interpreters.

Even if a lawyer calls his client from an office instead, the detainee must use a phone in a large cell, referred to as a pod, where other inmates are able to overhear the specifics of cases, including details such as LGBTQ status, gang violence and other sensitive matters. Phone connections can also be spotty, Warden-Hertz said.

“Really the only way to ensure that people get a fair shake is to let them out,” Warden-Hertz argued. He said given the current public health emergency some undocumented immigrants might opt to sign off on deportation papers, even with a strong case.

“It feels like an impossible situation,” Warden-Hertz said. “It’s just hard when you see your clients, and they’re so terrified.”

He said closing the courts has to go hand in hand with releasing people.