

# Trump's 'Deportation Machine' Keeps Growing Despite Pandemic

[Malathi Nayak](#) April 22, 2020, 4:30 AM PDT



The public screening area inside the JFK Federal Building in Boston where the immigration court is open.

Photographer: Barry Chin/The Boston Globe via Getty Images

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As President Donald Trump prepares to pause immigration into the U.S., the court system that handles the removal of immigrants is projected to issue nearly 60% more deportation orders than last year.

With the rest of the U.S. legal system grinding to a near halt amid the pandemic, at the nation's 69 federal immigration courts cleaning crews clad

in hazmat suits are regularly used to make sure in-person hearings can continue. The courts are moving at speed to reduce a massive backlog of cases despite outdated technology and criticism from advocacy groups and a union representing most of the nation's 460 immigration judges, who say the pace is putting people at risk of infection.

"The deportation machine has not stopped," said Florida immigration lawyer Ira Kurzban. "It's somewhat outrageous given the current circumstances."

While the number of people deported from the U.S. fell in March, one research group predicts that the total number of deportation orders will rise for the 2020 fiscal year, despite the pandemic. The Transactional Records Access Clearinghouse, a Syracuse University group that tracks government enforcement actions, estimates there will be 340,500 deportation orders in the year ending Sept. 30, 2020, up from 215,535 for the prior year. A spokeswoman for the Justice Department, which oversees immigration courts, declined to comment on the projection, saying it doesn't certify third-party statistics.

The National Association of Immigration Judges says the continued operation of the courts is unsafe and has called for them to be closed. The Trump administration in 2018 set a quota for each immigration judge to close 700 cases a year, a requirement that remains in force during the pandemic, said Ashley Tabaddor, president of the union.

## **'Hobbesian Choice'**

U.S. immigration judges are "being forced into this Hobbesian choice of risking their health and having to keep their jobs," said Tabaddor. She cites a colleague who is trying to meet his quota while minimizing his health risk as a throat cancer survivor.

Along with the judges, 1,200 support staff work in the nation's immigration courts. Those courts are taking precautionary steps similar to those elsewhere in the federal system "to reduce the likelihood of exposure to Covid-19," including holding hearings via phone or video conference whenever possible, according to Kathryn Mattingly, a Justice Department spokeswoman. Hearings involving people not in custody have also been suspended until May 15.

But judges and lawyers said it is harder for the immigration courts to operate remotely than other federal courts. While electronic document filing is routine in other federal courts, the immigration courts have struggled to introduce it, leaving most documents in paper form. Though some filings are now accepted by email, the many court employees without laptops need to come into the office to access them.

"The immigration courts are probably 20 years behind federal courts in terms of technology," said Jeff Chase, a former immigration judge. Moreover, some immigration courts have rules where opting for a phone hearing means giving up the right to object to documents submitted by ICE, he said.

The current situation has immigration lawyers choosing between their personal well-being and a client's future, Chase said. "Lawyers should not be put in this position."

Trump first tweeted about suspending immigration Monday night. He [offered more details](#) on Tuesday, saying the government would not issue new green cards to legal immigrants for at least 60 days, though guest worker programs would continue. The president said he was taking action to address the massive unemployment resulting from the crisis. "It would be wrong and unjust for Americans laid off by the virus to be replaced by new

immigrant labor flown in from abroad," he said.

## Big Backlog

Christopher Hajec, director of litigation at the Immigration Reform Law Institute, which supports the president's policies, says the large backlog of cases justifies keeping the immigration courts going despite the hazards. According to the Justice Department, there were 1,066,563 pending cases before the immigration courts at the end of last year.

"It would make it even more unmanageable if the immigration courts were to close down," Hajec said. "Nothing is a 100%. There is no way to have a society that functions at all if you have no risk."

But while courts continue to issue deportation orders, carrying them out is another matter. There are signs that Immigration and Customs Enforcement's removals of immigrants may be slowing in response to the pandemic. The agency said it completed deportations of 17,965 foreign nationals in March, down from 21,833 the month before. Through April 11, it said it removed 2,985 people. In 2019, ICE carried out 267,258 deportations.

Even as commercial air traffic has mostly ceased, ICE deportation flights have continued, including to countries that have officially closed their borders to try to slow the spread of the virus.

"World events or country conditions can sometimes impact a country's willingness to accept its citizens with final orders of removal back to their home countries," an ICE spokesperson said in a statement. When that happens, the agency said it works with foreign governments and through the State Department to resolve the matter. "ICE's expectation is that each country will continue to meet its international obligation to accept its own

nationals."

The potential for the virus to spread among the 32,000 ICE detainees is another major stressor on the system. Advocacy groups and legal unions have managed to win the release of a few dozen detainees deemed at high risk from exposure to the virus, but they haven't yet persuaded any judge to order a broader release of detainees or a nationwide pause in immigration court proceedings.

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