

# After Increasing Its Caseload, Attorneys Say Boston's Immigration Court Is In 'Disarray'

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By [Shannon Dooling](#) 

The John F. Kennedy Federal Building. (Jesse Costa/WBUR)

"Chaos," "disarray," "a complete disaster" — those are some of the ways immigration attorneys describe business these days in Boston's immigration court.

Unlike municipal and state courts, Boston's federal immigration court [has remained open](#) throughout the pandemic, hearing a limited number of cases.

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And ever since expanding the docket three weeks ago to include more in-person hearings, many immigration attorneys say operations have gone from bad to worse.

### **'We Can't Go On Like This'**

Boston is one of a dozen or so courts across the country that's [hearing more in-person cases](#) since last month. It's still unclear what criteria went into choosing Boston as one of the courts to hear additional cases.

Immigration judges and attorneys say communication from the federal government has been virtually nonexistent.

Eliana Nader, who heads up the New England chapter of the American Immigration Lawyers Association (AILA), says cases are being rescheduled,

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often to much earlier dates, without any written notice.

"For example, we have member AILA attorneys who have had cases that have been scheduled in 2022 that have been suddenly advanced to next month," she says.

WBUR heard from more than a dozen immigration attorneys in New England who say they've had hearings advanced or postponed with no written notice from the federal government. In many cases, the attorneys only discovered the rescheduling by checking an online portal or repeatedly calling the court.

And Nader says sometimes they don't find out until they arrive at court.

"And so what that has caused is many people who don't know their cases aren't going forward, because there's no information coming out of the court, traveling across state lines many times to show up in a busy courtroom, for a case that isn't going forward," she says.

Close to [75%](#) of individuals with proceedings in Boston's immigration court have lawyers who can navigate the system. But, Nader says, those who are unrepresented are even less likely to receive notification.

She fears many people could be living with orders of deportation and not even know it, after missing a hearing that was rescheduled with no written notice.

The Executive Office for Immigration Review, which oversees the nation's immigration courts, has repeatedly ignored WBUR's inquiries.

Sens. Elizabeth Warren and Ed Markey were among lawmakers who last

month [sent a letter](#) to the director of the EOIR expressing concerns over the timing of expanding caseloads in immigration courts despite coronavirus concerns.

On Friday, Warren said the EOIR has still not responded to their inquiry.

“What’s now happening at Boston’s immigration court is a perfect example of the lack of transparency I found so concerning — and EOIR’s unresponsiveness to a dozen senators is an additional example. This is no way to run a court system,” Warren said in a statement.

Carlos Estrada is a Boston-based immigration attorney. He says in his 25 years of practice, he’s never seen this much confusion in Boston’s court. At this point, he’s unsure how to counsel a client who lives out of state.

“He needs to book a flight, he needs to arrange time off from work, we need to know ahead of time,” Estrada says. “We can’t go on like this where the day before the hearing or sometimes the night before the hearing, we get a tweet saying, ‘Oh, the court is closed tomorrow.’ ”

### **'We Don't Know Either'**

In some instances, the confusion bleeds over into the government's prosecution as well.

Kira Gagarin, an immigration attorney based in Framingham, says her client's green card hearing was originally scheduled in April. It was cancelled and rescheduled to June when the [court postponed](#) hearings for people who weren't currently in federal custody.

A week before the hearing, Gagarin received [an email from the](#)

government's prosecutor, informing her that he needed more time.

"I received a motion from the Government to continue the case because they do not have the file," Gagarin said in a statement. "Can you imagine if I came to court seeking to continue a case because I couldn't find a file? I'd risk my license."

In the motion, the prosecutor said the court had given the Department of Homeland Security "insufficient notice" to obtain the file in time for the hearing and as such, "...the Department will not have the respondent's Alien file at the next hearing."

Gagarin says the prosecution's inability to locate files in a timely manner has been a common problem over the last month.

"The Department should be held to the same standard of diligence as all attorneys. My client has been waiting for his green card for years and this unnecessary delay is a violation of his rights," Gagarin's statement read.

The attorneys are not alone in their frustration.

At a public forum hosted earlier this week by The National Association of Immigration Judges, Los Angeles-based immigration judge Ashley Tabaddor told the group of over 1,000 virtual attendees, many of them attorneys, that judges also feel like they're operating in the dark.

"One of the major issues we've heard from the questions was, 'Well, we don't know what hearings are going forward with these court reopening plans.' I would say, we don't know either," Tabaddor said.

Immigration judges and attorneys agree: Better communication from the

federal government would go a long way toward improving the situation and protecting the right to a fair trial.

But Nader says instead, the focus seems to be on pushing through the [court's backlog](#).

"The court insists on chugging along with all their hearings and is not paying as much attention to people's due process rights," she says. "What seems to be most important right now is keeping that train running, keeping the cases going forward."

On Tuesday evening, the Executive Office for Immigration Review [tweeted](#) that Boston's court would be closed the following day, offering no explanation as to why but instructing people to check their [website](#) for updates. It appears Boston's court is now reopened.

*Editor's Note: This story has been updated with a statement from Sen. Elizabeth Warren.*

*This article was originally published on July 24, 2020.*

*This segment aired on July 24, 2020.*

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**Shannon Dooling**  Reporter

Shannon Dooling is an immigration reporter at WBUR, Boston's NPR news station.

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