

Trump, COVID-19 tie up immigration courts for thousands in California, attorneys say

[By Yesenia Amaro](#) October 18, 2020 05:00 AM,

Video of the USCIS Naturalization ceremony on Jan. 21 in Fresno

The Central Valley welcomed 809 residents from 57 counties who took oath of allegiance during the U.S Citizenship and Immigration Services naturalization ceremony on Jan. 21 at the Fresno Convention Center, Exhibit Hall. By [María G. Ortiz-Briones](#)

Many central San Joaquin Valley immigrants will live with uncertainty for months or even years after having their immigration cases pushed back to as far as 2024 due to the coronavirus pandemic.

Hearing delays due to recent court closures compound a long-standing backlog of pending immigration cases that have more than doubled

under the Trump administration, federal [data](#) shows.

While some immigration courts are back in session, judges only hear a limited number of cases per day. Many cases have been pushed back months and even years, with some stretching into 2024, according to the attorneys.

“Overall, it’s four years of anxiety, stress for them not knowing what is going to happen to them,” said Nathan Brown, a Fresno-based immigration attorney, during an interview. “They are basically stuck in limbo.”

In the fiscal year 2020’s third-quarter ending on June 30, the backlog [stood at 1,206,369](#), but there is no breakdown by immigration court, according to the Executive Office for Immigration Review (EOIR). EOIR is an agency under the U.S. Department of Justice that oversees the immigration court.

However, the Transactional Records Access Clearinghouse (TRAC) at Syracuse University [breaks down the data by immigration court](#) locations. As of August, TRAC’s most recent total count of pending cases for the fiscal year 2020 was 1,246,164 nationwide, with 191,774 of them in California.

The court in San Francisco has the largest backlog in the state, with a total of 72,657 pending cases, according to TRAC. The court in Sacramento has a backlog of 3,374 pending cases.

The Central Valley doesn’t have an Immigration Court, forcing local immigrants to travel to San Francisco or, occasionally, Sacramento.

COVID-19 made immigration court backlog worse

Immigration Judge Ashley Tabaddor is the president of the [National](#)

[Association of Immigration Judges.](#)

In a recent interview with The Bee, Tabaddor said the EOIR's response to the pandemic lacked adequate transparency, accountability, and effective communication.

The agency initially refused to take action to respond to the pandemic but eventually suspended all hearings for individuals who are not in custody, Tabaddor said. Hearings for people who are detained continued to take place without the option of remote hearings.

“When the agency decided to suspend the hearings and not allow us to do remote hearings, all of those cases had to be rescheduled. And since there was already a backlog of cases by many years, then the impact of those other cases not being able to be heard as previously scheduled was obviously a domino effect,” Tabaddor said. “They are going to get, oftentimes, pushed back to the end of the lines or in other ways just delayed for a significant period of time.”

The wait for pending immigration cases was already long, but the pandemic “made it much worse,” Brown said. A total of 30 clients he represents in the Central Valley had their cases pushed back to over the next four years.

“They canceled trials for about six months, and all those needed to be rescheduled, and some of them were rescheduled all the way to 2024,” he said.

Fresno immigration attorney Justin Sweeney said he also had some client cases rescheduled to 2024.

A backlog of applications for naturalization also have swelled during the pandemic, but those are outside of the immigration court process.

The Immigrant Legal Resource Center released a [special report](#) on

Thursday that found as many as 300,000 would-be citizens would be prevented from voting in the November election due to policies implemented by USCIS under the Trump administration.

There is currently a backlog of about 700,000 pending naturalization applications, according to the analysis.

Brown said a four-year delay could significantly impact the outcome of an immigration court case, making it harder to gather evidence and keep track of witnesses.

“The pandemic definitely did hurt, but again, the million-case backlog is from stuff prior to the pandemic,” Sweeney added.

Backlog more than doubles under Trump administration

In 2016, before President Donald Trump took office, the immigration court backlog stood at 521,476, which has more than double in the last four years, according to EOIR adjudication [data](#). In 2012, the backlog had 327,628 pending cases.

The most significant jump in cases in the last four years was seen from 2018 to 2019, data shows. The total backlog stood at more than 1.2 million cases over the summer.

One of the factors driving the backlog under the Trump administration, attorneys said, is that agencies such as USCIS that previously were only able to process applications and grant work permits were given the authority to initiate the deportation process.

A [June 28, 2018 memo](#) announced a new Notice to Appear (NTA) policy that expanded the list of people who can be placed in removal proceedings. The memo outlines how USCIS can initiate that process.

The policy followed an executive order Trump had signed the year before, according to the memo.

Allison Davenport, supervising attorney at the Immigrant Legal Resource Center, said USCIS in the past had only offered customer service, but that changed significantly under the 2018 NTA policy.

“We’ve really seen that agency (USCIS) weaponized under the Trump administration,” she said during an interview. “We are seeing even the customer service wing of the Department of Homeland Security become involved in channeling people toward the court system.”

If an application for an immigration benefit with USCIS is denied, the agency issues the individual a Notice to Appear. Immigrants mistakenly applying for an immigration benefit they are not eligible for is one reason a case could be denied and referred to Immigration Court by USCIS, Davenport said.

Those kinds of cases are common in the Central Valley because of the lack of enough qualified immigration attorneys and notaries who often prey on immigrants with [promises of fixing their immigration status](#). Sometimes immigrants are not eligible, or their paperwork isn’t completed after paying thousands of dollars for the service to someone not qualified, Davenport said.

“We see this a lot in our region... A lot of people are vulnerable to immigration fraud,” she said. “We see a lot of victims of fraud end up before an immigration judge because they trusted the wrong person.”

The Trump administration’s aggressive enforcement also has contributed to the backlog, Davenport said.

“I think we see a high number of that in the Central Valley because we do see more collaboration between our local law enforcement and

immigration authorities than some other regions do,” she said.

Additionally, immigration judges “have been stripped of their ability” to administratively close cases, such as those where the paperwork was filled out incorrectly, Sweeney said.

Immigration judges, Davenport said, are under much pressure in response to the backlog. New judges are continuously being hired, but the court system itself hasn’t been adequately funded for it to “function properly.”

However, some people think no more money should be poured into a broken system, Davenport said.

“I would say we definitely have a broken system, and it’s been further compromised and eroded under the Trump administration,” she said.

Tabaddor said the fact that the U.S. Justice Department oversees immigration courts has contributed to the problem.

“We don’t have the independence to be free from law enforcement priorities and decisions that directly impact the way that we handle cases,” she said. “It doesn’t matter which administration, but this administration has put in the greatest amount of policies that directly interfere with the judges’ ability to manage their docket and to make decisions independent of the law enforcement priorities of the agency,”

That interference, Tabaddor said, directly impacts the backlog.

“We have seen an unprecedented amount of cases, we have seen an unprecedented amount of micromanaging of the judges,” she said. “We have seen an unprecedented amount of examples where the attorney general is interfering with the decisions and using cases to rewrite the law.”

There have been calls to remove immigration courts from the Department of Justice to create an independent court, and the proposal has support, she said.

“Without fixing the foundational problem of having a court under a law enforcement agency, you will continue to see... the ballooning of the backlog,” Tabaddor said.

Matthew S. Metz, acting regional public information officer, said “EOIR constantly monitors its caseload nationwide and shifts resources to meet needs in the most efficient manner possible, which includes opening and closing immigration courts or hearing locations.”

Backlog impact immigrants in the San Joaquin Valley

Immigration attorneys say they haven’t seen statistics on how many of the pending cases in the Immigration Court in San Francisco and Sacramento involve immigrants in the Central Valley.

There’s no way to know how many Central Valley immigrants have been affected by the backlog, the EOIR confirmed.

Immigration attorneys who spoke with The Bee said it’s easily thousands of people.

As of February 2020, Fresno County had a total of 5,042 residents with a pending deportation case in the backlog, according to TRAC. But those are for deportation cases only and doesn’t include asylum cases or bond hearings, among other court cases.

The majority of Sweeney’s clients live in Fresno and Tulare counties, but he has a few as far down as Bakersfield.

“You can’t come to the country as an asylum seeker and go live in San Francisco,” he said. “You are living here in Fresno, or Madera, or

somewhere and doing farm work. You are not living in the high rises in Palo Alto.”

Fresno needs an immigration court, attorneys said.

Sweeney said even if the EOIR simply reserved rooms at the federal courthouse in Fresno, it would save local immigrants a lot of time and money.

Others disagree, however, that a court is needed in the region.

“To me, the answer is not about building more courts to process more cases to apply laws that are out of sync with reality and don’t provide due process protections for people the way that they should,” Davenport said. “It’s really to look bigger picture.”

Davenport said changing laws and providing more protections for immigrants would do a lot more to cut down on the court’s backlog.

Metz said EOIR announces new immigration court openings on its website but didn’t say whether there are any plans to open one in the Central Valley.



Brisa Cruz speaks at the at the community rally to protest recent arrests by ICE at the Fresno County Courthouse, outside the Hall of Records building, Tuesday Aug 8, 2018. JOHN WALKER jwalker@fresnobee.com



Yesenia Amaro covers immigration and diverse communities for The Fresno Bee. She previously worked for the Phnom Penh Post in Cambodia and the Las Vegas Review-Journal in Nevada. She recently received the 2018 Journalistic Integrity award from the CACJ. In 2015, she won the Outstanding Journalist of the Year Award from the Nevada Press Association, and also received the Community Service Award.