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## *Government Shutdown May Turn a Day in Court Into a Four-Year Wait*



A federal detention center in Seattle. At federal prisons, corrections officers are working without a paycheck because of the shutdown. CreditCreditElaine Thompson/Associated Press

**By Richard A. Oppel Jr. and Christina Goldbaum**

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A 61-year-old man from the Dominican Republic has been waiting for his day in federal immigration court since the 1980s, unable to visit his dying mother back home or, in recent years, legally hold a job. His trial was finally to come next week.

But because of the federal government shutdown, he stands to lose his precious court date.

In the backlogged immigration courts, that is likely to mean not just a few more weeks of waiting, but a few more years. Migrants like this man — who asked to be identified only by his first name, Jose, for fear of repercussions in court — are being sent to the back of the line, with their new court dates coming as late as 2022.

From furloughs at the Justice Department to confusion in the courts, to prison officers working without a paycheck, the shutdown has challenged the nation's courts and criminal justice system and those whose livelihoods depend on them, slowing some cases while throwing others into disarray.

Federal district courts are still operating because they have revenue from court fees and other sources aside from congressional appropriations. But those funds may run out as soon as next Friday, leaving it up to judges to decide which cases are critical and must be heard and which will be delayed. Criminal cases are likely to be prioritized.

At federal prisons, which employ roughly 36,000 people, corrections officers who struggle during normal times to cover their bills are now expecting that next week's paycheck will not arrive. Guards who normally take home \$1,000 to \$1,400 per biweekly check are scrambling to figure out how to pay for child care, rent and medications.

]Eric Young, the national president of prison locals for the American Federation of Government Employees, said he had heard from one prison worker in Florida who needs \$200 for his supply of insulin injections. "People are having to decide whether to keep the lights on or pay for their insulin," Mr. Young said. "It's depressing. And it's just unconscionable to know that the federal work force is being penalized because of politics between the parties."

About four out of every five Justice Department employees are expected to keep working, because so many are employed in law enforcement or national security jobs, including at the F.B.I., the D.E.A., and the Bureau of Prisons. But none are expected to be paid during the shutdown, unless their offices have a funding source separate from congressional appropriations.

The shutdown has already led to a slowdown in civil lawsuits, and some confusion, as federal judges across the country have issued a hodgepodge of conflicting orders. In the Federal District Court for the Southern District of West Virginia, a federal judge ordered that all cases in which the federal government is a party be delayed.

Another judge issued an order exempting his own cases from the first judge's order.

The second judge, Joseph R. Goodwin, wrote: "It is my view that the government should not be given special influence or accommodation in cases where such special considerations are unavailable to other litigants."

Justice Department lawyers whose civil cases are not granted delays can keep working to meet court deadlines and requirements for filings and appearances. Most federal prosecutors and support staff for criminal cases are continuing to work.

Elsewhere, Justice Department lawyers have begged to delay civil cases in which the government — or even President Trump — is being sued, saying they are now prohibited from working on these cases except in emergencies and other very limited circumstances. They have met with mixed success.

In a lawsuit alleging that Mr. Trump used his Washington hotel to illegally profit from business with foreign countries, a delay has been granted.

But in a case that seeks to block the Trump administration from questioning people about their citizenship in the 2020 census — a measure that critics say is devised to suppress responses from migrants — the judge, Richard Seeborg of Federal District Court in San Francisco, denied a request to delay and ordered the trial to begin Monday. The Justice Department says it will comply.

Judges will have significant latitude to determine which cases go forward and which are delayed, once the court fees and other revenue are depleted.

“Judges are in the best position to determine what cases have an urgency,” said David Sellers, the spokesman for the Administrative Office of the United States Courts.

Mr. Sellers said judges will continue to appoint defense lawyers to represent criminal defendants too poor to pay for one, and jurors will continue to be empaneled. They will get paid, he said, once money is appropriated.

Advocates for prisoners and their families fear that the shutdown could delay the implementation of a new criminal justice bill that promised to shorten sentences for some federal inmates by recalculating the amount of good time credit they have earned, because the Justice Department must create new tools and protocols first.

The deadlines for those “were already pretty ambitious, even when the department was fully staffed and appropriated,” said Kevin Ring, president of FAMM, a nonprofit group that was founded to oppose mandatory minimum sentences. “We’re watching that closely.”

But probably no system is feeling the shutdown as much as the already overburdened immigration courts, where there are more than 800,000 cases pending. Most of these courts, except those that hear the cases of those currently in detention, are now closed because of the shutdown.

As a result, the impasse over the Trump administration’s demand for a border wall to halt illegal immigration will result in long delays in deportations for those who are already here but ultimately lose their cases.

“That is the irony of this shutdown,” said Judge Amiena Khan, the executive vice president of the National Association of Immigration Judges, the judges’ union. “The impact is most acutely felt in immigration courts and proceedings where cases will not be going forward.”

Because of the volume of trials from the past two weeks that now must be rescheduled, the affected cases are likely to be pushed to the end of the judges’ dockets rather than squeezed into their schedules once the shutdown ends.

In New York, home to one of the busiest immigration courts in the country, those whose trials have been postponed will have to wait until the end of 2022 and 2023 at the earliest before their cases are heard because of the backlog, Judge Khan said.

“I was very nervous because we were so close, and this is just making me even more nervous,” Jose said. “Every day I hope the government reopens.”

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<https://www.nytimes.com/2019/01/04/us/government-shutdown-courts-prisons.html>