

A System Under Stress

OVERVIEW

In September 2020, the Tahirih Justice Center began researching the effects of the COVID-19 pandemic on non-detained immigrants' ability to seek justice through immigration courts. Over the course of our research, we discovered three main areas of concern: government policies, communication difficulties, and client safety.

During the beginning of the pandemic, rapid immigration policy changes came almost weekly, radically affecting direct service providers' work. These changes required attorneys to spend extended time adjusting paperwork and reframing arguments. Similarly, the schedules for courts to reopen have been inconsistent across the country, leaving attorneys in a constant state of preparing for hearings that repeatedly get rescheduled.

Attorneys also report communication with clients during the pandemic as a challenge. In the past, in-person meetings with clients would allow attorneys to get signatures, gather documents, and go over aspects of their clients' cases over the course of a few meetings. However, without in-person contact, these tasks now take weeks. This is predominantly due to a reliance on the U.S. mail to get signatures and gather client documents.

There is also a real concern for the health and well-being of clients. Immigrant communities are at a higher risk for contracting COVID-19 due to higher instances of poverty, overcrowded housing, and a concentration in essential worker positions. Additionally, these communities face the same economic difficulties as the rest of the country, all while undergoing the stress of an immigration case.

Ultimately, direct service providers' capacity is reaching a breaking point while pressure increases on immigrant communities facing the economic, physical, and social hardships of the pandemic.

KEY RECOMMENDATIONS

- Congress must pass pandemic relief inclusive of immigrant communities to help mitigate the health and economic crisis that this population faces.
- Policies that make it harder for immigrants to access fair and timely hearings in immigration court must be eliminated. Prosecutorial discretion must be reinstated to reduce backlogs, and immigrants with pending applications before other agencies such as U.S. Citizenship and Immigration Services (USCIS) should have their cases for deportation closed.
- The Executive Office for Immigration Review (EOIR) must invite robust stakeholder engagement to plan for the reopening of all courts to prevent a wave of rescheduled cases overwhelming the system.