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Ranking member Robert Aderholt voiced similar criticism, asking how the office could have better advised the subcommittee in the months leading up to passage of the final fiscal 2019 bill. | Getty Images

Appropriators scold Trump administration for silence on immigration court funding

By JENNIFER SCHOLTES | 03/07/2019 01:08 PM EST

House spending leaders are chiding the Trump administration for not asking for more cash to help tick through the nation's behemoth backlog in immigration cases.

Appropriators on the Commerce, Justice, and Science Subcommittee asked the director of the Executive Office for Immigration Review on Thursday why he didn't raise red flags for Congress before fiscal 2019 funding was finalized for the Justice Department last month, H.J. Res. 31 (116).

While the nation is already buried under a backlog of roughly 840,000 immigration cases, the office's leaders sent an email to staff this week announcing that the rising cost of

interpreters could lead the agency to slow hiring of judges, cancel training, curtail acquisition of new space and delay technology improvements, subcommittee Chairman José Serrano (D-N.Y.) said.

“I understand that cost increase,” Serrano said during a hearing. “But what I find unacceptable is that you didn’t come to the Congress, to this subcommittee, and openly discuss this budget situation and ask for additional resources.”

The chairman’s Republican counterpart, ranking member Robert Aderholt (R-Ala.), voiced similar criticism, asking how the office could have better advised the subcommittee in the months leading up to passage of the final fiscal 2019 bill.

“The bottom line is that the net effect of this untenable backlog situation is to delay justice, in many cases for years for those who have a valid claim to immigration benefits, while those who have no right to remain in the United States are rewarded with many years of illegal presence,” Aderholt said.

The office’s director, James McHenry, said his staff of roughly 1,800 workers has made “considerable progress” and has “aggressively confronted” the case backlog since 2017, blaming the issue on “eight consecutive years of declining or stagnant productivity” during the Obama administration.

The “larger culture at the time ... didn’t emphasize the importance or the need for completing cases in a timely manner,” said McHenry, who first joined the agency in 2003 and returned in 2016, when he was appointed as an administrative law judge.

Serrano presented a different perspective on the changes that have been made in recent years in an attempt to dig out of the case backlog, saying during the hearing that the office imposes arbitrary quotas on immigration judges and that “the leadership of the Justice Department has attempted to turn our immigration courts into a sort of deportation DMV where immigrants get minimal due process on their way out the door.”

The fiscal 2019 funding package provided more than \$563 million for the office, an increase of \$59 million, or more than 10 percent over fiscal 2018, to enable the Justice Department to hire additional immigration judges and upgrade its electronic case management system.

While the office has hired more immigration judges in the last two fiscal years than the prior seven fiscal years combined, additional judges remain its No. 1 need, McHenry said.

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