

Immigration Judges Not Meeting DOJ Production Goals, House Told

More than half of the Justice Department's immigration judges didn't meet case processing goals during the first year that a new production quota was in place, showing that quotas are a bad way to measure performance, the president of the judges' union told a House panel.

The numbers of cases processed by individual judges during fiscal year 2019 varied widely—from 36 cases to more than 2,000 cases—because of the unique facts and circumstances of each case, said Ashley Tabaddor, president of the National Association of Immigration Judges. Tabaddor appeared before the House Judiciary Subcommittee on Immigration and Citizenship.

Tabaddor's testimony comes as the NAIJ, which represents about 440 immigration judges, faces a [union decertification](#) petition from the Justice Department. The Trump administration is locked in labor disputes with a number of the unions that represent about half of the nation's 2.1 million federal workers, but the immigration judges' union is one of the few facing the prospect of no longer being able to represent bargaining unit employees.

"Over 60% of judges failed to complete 700 cases for the year, but 19% completed over 900 cases. What is clear is that the quotas and deadlines cannot actually provide a fair picture of a judge's performance," Tabaddor said.

The DOJ in April 2018 [unveiled](#) a new requirement that beginning in fiscal 2019, judges must complete 700 cases each per year. The judges' union

said at the time that the requirement meant judges would have to close out a case every 2.5 hours.

Despite the quotas, the immigration judges' case [backlog](#) is now at about 1.1 million cases.

The quotas force the judges to choose between job security—pleasing their employer by meeting the quotas—and “impartial decisionmaking,” Tabaddor said. That’s why the judges should be part of an independent agency and not under the authority of the DOJ, she said.

None of the judges have been penalized for not meeting production quotas, said Rep. Ken Buck (R-Colo.), the subcommittee’s ranking member. Judges processed more than 275,000 cases in fiscal 2019, but the case backlog is growing anyway because so many people are attempting to cross the U.S. border illegally, he said.

The DOJ didn’t have a witness at the House hearing. The department didn’t immediately respond to a request for comment.

‘Assembly-Line’ Mentality

One of the issues raised by the petition filed with the Federal Labor Relations Authority is whether the judges have more power and less oversight than they did when the FLRA last considered the question in 2000. The authority found then that the judges weren’t management officials and therefore it was appropriate for them to be represented by a union.

The DOJ says they now have more influence over public policy, while the judges’ union says that because of the production quotas and other changes, more than ever the judges should be considered employees and

not policymakers.

The issue of whether the immigration judges should be independent from the DOJ isn't new, Tabaddor said, noting that both the American Bar Association and the American Immigration Lawyers Association agree with the union that the nation would be better served by an independent judges' agency.

What is new is the micromanagement faced by the judges and the "assembly-line" mentality that the department is taking toward their productivity, she said. If the union is decertified, one of the only remaining independent voices for the judges will have been eliminated, Tabaddor said.

Andrew Arthur, a former immigration judge who's now a resident fellow at the Washington-based Center for Immigration Studies, told the House panel that Congress itself has mandated that the immigration judges close out asylum cases within 180 days. Although the DOJ is hiring new immigration judges at a rapid clip, it also needs to ensure that the judges have adequate support staff to help them meet their performance goals, he said.