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The Honorable Jay C. Kim
Chairman, Subcommittee on Public Buildings and
Economic Development
Committee on Transportation and Infrastructure
House of Representatives

The Honorable James A. Traficant, Jr.
Ranking Minority Member
Subcommittee on Public Buildings and
Economic Development
Committee on Transportation and Infrastructure
House of Representatives

Subject: Courthouse Construction: Information on the Use of District
Courtrooms at Selected Locations

The General Services Administration (GSA) and the federal judiciary have embarked on a multibillion-dollar courthouse construction initiative that includes plans to construct hundreds of new courtrooms to replace existing ones and to accommodate future increases in federal judgeships. One of the issues that has arisen during debates over this effort is whether the judiciary needs to continue its current practice of providing one courtroom for each district judge. Over the last few years, various Subcommittees and Members of Congress have become increasingly concerned that courtrooms may be underutilized and that more costly courtrooms than needed may have been, and continue to be, constructed. Using GSA data, we estimated that the cost to build a typical trial courtroom could range from about \$650,000 to \$1.3 million depending on geographic location. The cost in Washington, D.C., was about \$800,000.

On May 19 , 1997, the same date as this letter, we issued a report to you and others on courtroom usage at seven courthouse locations—Dallas, TX; Miami, FL; Washington, D.C.; San Diego, CA; and Albuquerque, Santa Fe, and Las Cruces, NM.¹ In that report, we provided data that showed district courtroom usage for trial and nontrial activities varied by judge and location, and trial courtrooms were not used for these purposes at all for many days during 1995. We also noted that the judiciary does not have an approach for collecting and analyzing usage data or criteria for measuring effective courtroom utilization, and it may be missing opportunities to reduce construction costs. We recommended that the judiciary take steps to examine courtroom usage and the practice of providing a trial courtroom for each district judge.

In September 1996, while we were completing our fieldwork for our courtroom usage report, you requested that we also compile and analyze courtroom usage data for federal district courts in Denver, CO; Fresno, CA; Salt Lake City, UT; and Seattle, WA. All of these locations are sites where new courthouse construction projects are planned by the judiciary and are under congressional consideration. This letter provides information on the use of district courtrooms at these locations during the 21-month period beginning January 1, 1995, and ending September 30, 1996, and supplements the information contained in our courtroom usage report.

RESULTS

The data we compiled and analyzed on district courtroom usage in Denver, Fresno, Salt Lake City, and Seattle showed that on average, overall courtroom usage for trial and nontrial activities at these locations was similar to usage in the seven locations discussed in our courtroom usage report. That is, on average, for a 21-month period ending September 1996, trial courtrooms at these four locations were used for trial and nontrial purposes about 58 percent of the days they could have been used—4 percent higher than the 54 percent usage rate for the 12-month period ending December 1995 for the seven locations.² Like the seven other locations, courtrooms at these four locations were used for trials about one-third or less of the days they were available, and total nontrial activity on many of the days took 2 hours or less. Furthermore, all of the courtrooms at any of the four locations were often not used on the same day. Finally, as with the other seven courthouse locations we examined, senior judges, on average, used the courtrooms for trials and nontrial purposes

¹COURTHOUSE CONSTRUCTION: Better Courtroom Use Data Could Enhance Facility Planning and Decisionmaking (GAO/GGD-97-39, May 19 , 1997).

²According to the Administrative Office of the United States Court, trials are defined as any contested proceeding. Nontrial events include motion hearings, pretrial conferences, arraignments, and other proceedings.

significantly less than other district judges.³ Appendix I contains three tables that show our analysis of usage at each of the four locations. Appendix II discusses our objective, scope, and methodology.

Our discussions with judges at the four locations were consistent with those at the other seven locations in that most of the judges with whom we spoke prefer their own courtrooms. Likewise, judges and court officials generally said that senior judges would be better able than district judges to share courtrooms because of their smaller caseloads. In fact, senior judges at Fresno and Seattle shared courtrooms with other judges. In Denver, Fresno, and Salt Lake City visiting district judges used available courtrooms that in some instances were assigned to other judges—suggesting there may be opportunities to reduce costs through additional sharing assignments.⁴

As explained in our courtroom usage report, Administrative Office of the United States Courts (AOUSC) officials believe that courtroom usage data like we developed have limited application because the data do not capture such factors as (1) latent use of the courtrooms whereby the threat of having a trial in an available courtroom can leverage the disposition of a case before trial; and (2) the extent to which courtrooms are unused because of cases that settle just before a scheduled trial, leaving an empty courtroom that cannot always be rescheduled with another case. However, the judiciary has not developed data to show how much of an effect these factors may have on the number of courtrooms needed.

As mentioned earlier, this letter supplements, and the evidence further supports, the message, conclusions, and recommendations in our courtroom usage report. Therefore, we are not making conclusions and recommendations in this letter.

³U.S. district courts, the federal courts of general trial jurisdiction, have two categories of district judges. The first is "active district judges" who carry full caseloads; and the other is "district judges with senior status" who have resigned from active judgeships but continue to carry out judicial duties, often with reduced caseloads. Senior status can be achieved when a district judge reaches the age and service eligibility requirement for retirement. In this letter, we refer to active district judges as district judges and to district judges with senior status as senior judges. District courts also have magistrate judges, who, according to the Federal Judicial Center, in some instances, play an integral part in resolving cases.

⁴A visiting district judge is either a district or senior judge who is on temporary assignment to a U.S. district court to which he or she is not assigned. Although other members of the judiciary, such as circuit judges, can also use district courtrooms as visiting judges, we found no recorded use of district courtrooms by these judges.

AGENCY COMMENTS AND OUR EVALUATION

Written comments were provided on a draft of the courtroom usage report and this related correspondence on April 7, 1997, by AOUSC and FTC, and on April 11, 1997, by GSA. Most of the comments were directed at the courtroom usage report. Their comments are reproduced in their entirety in that report. Their comments related to this letter were technical in nature and we made changes where appropriate.

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We are sending copies of this letter to the Chairman, Judicial Conference Committee on Space and Facilities; Director, AOUSC; Administrator of GSA; Director, Office of Management and Budget; and other interested parties. We will also make it available to others on request. The major contributors are listed in appendix III. If you have any questions, please contact me on (202) 512-8387.



Bernard L. Ungar
Director, Government Business
Operations Issues

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COURTROOM USAGE

Table I.1: Percentage of Days Courtrooms Were Not Used at All or Were Used for Trials and Nontrial Purposes at Four Courthouses During the Period January 1995 Through September 1996

| Location | Trial use | Nontrial use only - 2 hours or less | Nontrial use only - more than 2 hours | No use |
|-----------------------------------|-----------|--|--|--------|
| Denver^a | | | | |
| 1995 | 27% | 21% | 5% | 47% |
| 1996 | 28 | 24 | 8 | 40 |
| 1995/1996 | 27 | 22 | 7 | 44 |
| Fresno^b | | | | |
| 1995 | 38 | 13 | 9 | 40 |
| 1996 | 26 | 16 | 10 | 48 |
| 1995/1996 | 33 | 15 | 9 | 43 |
| Salt Lake City^c | | | | |
| 1995 | 18 | 30 | 10 | 42 |
| 1996 | 27 | 31 | 11 | 31 |
| 1995/1996 | 22 | 30 | 10 | 38 |
| Seattle^d | | | | |
| 1995 | 27 | 22 | 7 | 44 |
| 1996 | 28 | 22 | 8 | 42 |
| 1995/1996 | 28 | 22 | 7 | 43 |

^aThe Denver Courthouse had 10 district courtrooms used by 6 district, 2 senior, and 3 visiting judges. Nontrial percentages also include a total of 83 days (58 in 1995 and 25 in 1996) of courtroom use during this 21-month period by magistrate, district, and visiting judges not included in JS-10 reports.

^bThe Fresno Courthouse had three district courtrooms used by two active and two senior district judges and one visiting judge.

^eThe Salt Lake City Courthouse had six courtrooms used by five active, two senior, and three visiting judges.

^dThe Seattle Courthouse had five courtrooms used by five district and one senior judge. Nontrial percentages for 1996 and 1995/1996 include a total of 6 days of courtroom use by magistrate judges.

Source: GAO analysis of data obtained at four courthouse locations.

Table I.2: Number of Days All Courtrooms at a Location Were Used for Trial and Nontrial Activities on the Same Day During the Period January 1995 Through September 1996

| Location | Number of courtrooms | January 1995 through December 1995 ^a | January 1996 through September 1996 ^a | Total - both periods |
|----------------|----------------------|---|--|------------------------------------|
| | | Number of days all courtrooms used | Number of days all courtrooms used | Number of days all courtrooms used |
| Denver | 10 | 0 | 1 | 1 |
| Fresno | 3 | 67 | 34 | 101 |
| Salt Lake City | 6 | 10 | 21 | 31 |
| Seattle | 5 | 23 | 19 | 42 |

^aThe period from January through December 1995 had 250 workdays, and the period from January through September 1996 had 190 workdays except in Salt Lake City, which had 249 and 189 workdays, respectively, because the federal courts were closed for an additional state holiday.

Source: GAO analysis of data obtained at four courthouse locations.

APPENDIX I

APPENDIX I

Table 13 Percentage of Days District and Senior Judges Did Not Use Courtrooms or Used Courtrooms for Trials and Nontrial Purposes at Four Courthouses During the Period January 1995 Through September 1996

| Location | District judges | | | | Senior judges | | | |
|-----------------------------------|-----------------|-------------------------------------|---------------------------------------|--------|---------------|-------------------------------------|---------------------------------------|--------|
| | Trial use | Nontrial use only - 2 hours or less | Nontrial use only - more than 2 hours | No use | Trial use | Nontrial use only - 2 hours or less | Nontrial use only - more than 2 hours | No use |
| Denver^a | | | | | | | | |
| 1995 | 40% | 32% | 6% | 22% | 15% | 17% | 1% | 67% |
| 1996 | 32 | 33 | 10 | 25 | 24 | 34 | 1 | 41 |
| 1995/1996 | 36 | 33 | 8 | 23 | 18 | 21 | 1 | 60 |
| Fresno^b | | | | | | | | |
| 1995 | 40 | 9 | 13 | 38 | 16 | 11 | 1 | 72 |
| 1996 | 41 | 16 | 15 | 28 | 6 | 9 | 3 | 82 |
| 1995/1996 | 41 | 11 | 14 | 34 | 11 | 10 | 2 | 77 |
| Salt Lake City^c | | | | | | | | |
| 1995 | 20 | 38 | 10 | 32 | 13 | 11 | 7 | 69 |
| 1996 | 32 | 32 | 8 | 28 | 7 | 23 | 24 | 46 |
| 1995/1996 | 25 | 35 | 9 | 31 | 11 | 15 | 13 | 61 |
| Seattle^d | | | | | | | | |
| 1995 | 25 | 21 | 7 | 47 | 11 | 3 | 0 | 86 |
| 1996 | 25 | 20 | 8 | 47 | 12 | 6 | 0 | 82 |
| 1995/1996 | 25 | 21 | 7 | 47 | 11 | 4 | 0 | 85 |

^aIn January 1995, Denver had five district and two senior judges. One new district judge took the bench in September 1995, and one of the senior judges retired from casework at the end of 1995. During 1996, Denver had six district judges and one senior judge.

^bIn January 1995 and continuing into 1996, Fresno had two district and two senior judges. In May 1996, one of the district judges took senior status; thus, Fresno had one district and three senior judges.

^cIn January 1995, Salt Lake City had four district and two senior judges. In June 1995, one senior judge retired from casework; and in August 1995, a new district judge took the bench. During 1996, Salt Lake City had five district judges and one senior judge.

^dThroughout the period January 1995 through September 1996, Seattle had five district judges and one senior judge.

Source: GAO analysis of data at four courthouse locations.

OBJECTIVE , SCOPE, AND METHODOLOGY

Our objective was to determine how often and for what purposes district courtrooms are used. We did our work primarily at Administrative Office of the United States Courts (AOUSC) in Washington, D.C., and at four courthouse locations. Specifically, we reviewed the use of the 10 district courtrooms in Denver, CO (District of Colorado); the 3 district courtrooms in Fresno, CA (Eastern District of California); the 6 district courtrooms in Salt Lake City, UT (District of Utah); and the 5 district courtrooms in Seattle (Western District of Washington). We did our work at these locations at your request, which was prompted by anticipated deliberations over funding for new court construction projects at these locations. We focused our review on district courtroom usage during the 21-month period beginning January 1995 through September 1996 because of time constraints, the volume of information and records at each location, and the fact that AOUSC and individual courts do not compile statistical data on how often and for what purposes courtrooms are used.

To do our detailed audit work, we first reviewed Monthly Reports of Trials and Other Court Activity (JS-10) prepared by the courts for 1995 and the first 9 months of 1996 pertaining to all district and senior judges assigned to the locations we visited. We also reviewed Monthly Reports of Visiting Judge Activity (JS-10A) prepared by the courts pertaining to all visiting judges who heard cases at these locations. The JS-10 is supposed to be used to report trials and other proceedings conducted by individual district or senior judges on a monthly basis. The judiciary requires a JS-10 report for each active district judge each month even if the judge did not have any trials or proceedings that particular month. A JS-10 is also required for any senior judge during each month that the judge had court activity. Likewise, the JS-10A is supposed to be used to report the court time of visiting judges who are temporarily assigned to a court and is supposed to be completed by the court receiving the services.

According to AOUSC, the JS-10 was not designed to provide information on how often courtrooms are used. AOUSC officials said the JS-10 was designed to provide information on (1) the number and length of trials conducted in district courts and (2) the amount of time judges spend on other court activities in which both sides of the controversy were involved. AOUSC officials acknowledged that the JS-10 might allow for an approximation of courtroom use data in some courts, but it does not provide a satisfactory substitute for actual data on courtroom usage. They contend that much of the time courtrooms are in use does not appear on the JS-10 because it does not capture such things as use by other types of judges and time when the courtroom must be available to enforce trial schedules or foster settlement of litigation.

Court officials at all locations we visited told us that (1) active district and senior district judges are the primary users of the trial courtrooms and (2) the JS-10 is the

best source for determining how often and for what purposes the judges used their courtrooms. From page 1 of the JS-10 reports, we were able to determine the date that each trial began and the total number of hours and separate days that each judge spent on each trial during the month. We were not, however, able to determine from the JS-10 reports the specific dates that the judges used the courtrooms for trials. Using page 2 of the JS-10 reports, we determined the number of hours and the specific days that each judge spent conducting nontrial proceedings, such as arraignments/pleas, motions, pretrial hearings, and other proceedings.⁵ While these proceedings may have been held in either the courtrooms, the judges' chambers, or other meeting rooms, we credited all of this time as courtroom usage time regardless of where the event occurred.

To determine the specific days that the courtrooms were used for trials and because of AOUSC's concerns about the JS-10, we validated the courtroom usage information taken from these reports by reviewing various detailed records. In general, we analyzed the available judges' and/or their courtroom deputies' daily calendars. These calendars provided the specific days and types of proceedings that the judges conducted throughout the year. In some cases, we reviewed the minute orders or clerks' minutes maintained by the courts. Like the daily calendars, these documents provided such details as the dates and type of hearings that were conducted by each judge on a case-by-case basis. Finally, in some instances, we had to review case histories from the Integrated Case Management System, which is an automated docketing system that keeps track of case events, such as hearing dates and the particular judge who conducted the hearings.

Our detailed analyses of the various daily records showed that the JS-10 data was generally accurate; but when we found errors, we made corrections before recording the data into our database of courtroom usage. Identifying errors with the JS-10 data was possible because our detailed analyses allowed us to determine all the days that the senior, district, and visiting judges held trials and nontrial proceedings that could have taken place in a courtroom.

Also, we requested and reviewed court management statistics and other data, where available, that showed the use of trial courtrooms by individuals other than federal district judges. This included use by magistrate judges and administrative law judges as well as various ceremonial uses of the courtrooms. Court officials in Denver and

⁵At the district court in Fresno, automated JS-10 reports did not show the specific days on which nontrial events occurred, but they showed totals for nontrial hours and proceedings for the month. Using daily court calendars and other records, we were able to identify the specific days during which nontrial activities occurred.

Seattle were able to provide documentation on miscellaneous usage, which is reflected in our overall calculations. Court officials in the other locations did not have readily available data to document miscellaneous usage, but they said that such usage was insignificant.

After examining all the data, we credited each courtroom with a full day of usage for all days that the records showed that it had any activity in it. We considered it a trial day if it had any trial activity, regardless of any nontrial activity that also may have occurred. We determined the percentage of days⁶ that courtrooms were used by comparing actual usage with the maximum number of workdays the courtrooms could have been used (250) in 1995 and the maximum number of workdays courtrooms could have been used during the first 9 months of 1996 (190).⁷ We also determined, on a location-by-location basis, how many courtrooms were in use on every working day during the period. This analysis allowed us to identify the number of days when at least one courtroom was vacant at each location. Once we completed our data collection and analysis for each location, we provided the results of our work to the individual courts. We considered their comments when finalizing our work.

We cannot project the results of our work to the universe of district courtrooms nationwide, within the districts where they were located, or to the locations we visited in other time periods. We did our work between October 1996 and April 1997 in accordance with generally accepted government auditing standards.

⁶Throughout this letter, percentages may not add due to rounding.

⁷In Utah, the number of workdays the courtrooms could have been used was 249 in 1995 and 189 between January and September 1996. This was because the federal courts were closed in observance of a state holiday.

MAJOR CONTRIBUTORS

GENERAL GOVERNMENT DIVISION, WASHINGTON, D.C.

Gerald Stankosky, Assistant Director, Government Business Operations Issues
John F. Mortin, Assignment Manager
William J. Dowdal, Senior Evaluator

DALLAS FIELD OFFICE, DALLAS, TEXAS

Sherill H. Johnson, Assistant Director, Government Business Operations Issues
James G. Cooksey, Evaluator-in-charge
J. Paul Rodriguez, Senior Evaluator
Patricia Sari-Spear, Senior Evaluator
Dorothy M. Tejada, Evaluator

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