

Honorable Frank R. Wolf  
Chairman  
Subcommittee on Commerce, Justice, State,  
the Judiciary, and Related Agencies  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

The conference report that accompanies the bill making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for 2001 directs the Congressional Budget Office (CBO) to review and comment on a 2000 study, *Independent Assessment of the Judiciary's Space and Facilities Program*, prepared by Ernst & Young (U.S. House of Representatives, conference report to accompany H.R. 4942, Report 106-1005, October 2000, pp. 287-288). This letter is CBO's response.

The General Accounting Office (GAO) also reviewed and commented on the Ernst & Young study in December 2000 (see General Accounting Office, *Courthouse Construction: Sufficient Data and Analysis Would Help Resolve the Courtroom-Sharing Issue*, GAO-01-70, December 2000; see also *Courthouse Construction: Better Courtroom Use Data Could Enhance Facility Planning and Decisionmaking*, GAO/GGD-97-39, May 1997). CBO's review is confined to the part of the Ernst & Young study that covers a subject CBO has addressed in earlier work: courtroom sharing. In April 2000, CBO issued *The One-Courtroom, One-Judge Policy: A Preliminary Review*. That report—prepared at the request of the Subcommittee on Economic Development, Public Buildings, Hazardous Materials, and Pipeline Transportation of the House Committee on Transportation and Infrastructure—concludes that more courtroom sharing would not necessarily cause trial delays, as some people have contended.

The Ernst & Young study urges the judiciary to keep its national policy of one courtroom per active judge, but it goes on to recommend additional sharing of court space among senior judges and the consideration of opportunities for sharing among other judges. In particular, it indicates that larger courthouses offer the potential for more sharing. The study also notes that courtroom sharing could reduce construction requirements and produce substantial savings. But it warns that using courtroom sharing as an alternative to the construction of additional court space could result in having too few courtrooms. Wise policy decisions, according to Ernst & Young, would ensure that the judiciary neither overbuilds nor underbuilds court space.

CBO's primary concern with the Ernst & Young study is that it provides only limited data and analysis of the sort that other analysts have called for to guide decisions about how much or under what circumstances to pursue more courtroom sharing. In particular, Ernst & Young did not collect new data on how courtrooms are used or prepare the computer simulations of court systems that could aid decisions about more sharing. In response to a similar observation by GAO, Ernst & Young acknowledged that it "considered the various approaches that others had developed to attempt to study this issue empirically. It became clear that such approaches would entail a data collection effort that was far beyond the scope, time frame, and resource commitment of our engagement" (General Accounting Office, *Courthouse Construction: Sufficient Data*, pp. 40-41).

In both its 1997 and recent reviews, GAO called on the judiciary to collect data on courtroom use as part of a research effort designed to guide decisionmaking on the sharing of courtrooms. Data and analysis form a critical component of management for most large organizations. In fact, the judiciary already collects data and uses computer modeling and other analytic methods to aid other aspects of its space planning. As GAO notes, data and analysis alone cannot resolve the courtroom sharing issue. But they are key components of decisionmaking about sharing. Information of that sort would have been a useful guide for the Committee's policy decisions on courtroom sharing. Its absence from the Ernst & Young report is unfortunate.

I hope that you will find this review useful. If you wish further details, we will be happy to provide them. The CBO staff contact is Mark Musell.

Sincerely,

Dan L. Crippen  
Director

Identical letters sent to:

Honorable Jose E. Serrano  
Ranking Democrat

Honorable C.W. Bill Young  
Chairman  
Committee on Appropriations

Honorable David Obey  
Ranking Democratic Member  
Committee on Appropriations