

**COMMITTEE ON THE JUDICIARY
BEFORE THE SUBCOMMITTEE ON COURTS,
INTELLECTUAL PROPERTY, AND THE INTERNET**

**STATEMENT OF HON. GLEN E. CONRAD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

**HEARING ON: GSA's Failure to Meet the Needs of the Judiciary:
A Case Study of Bureaucratic Negligence and Waste**

June 19, 2014

Good morning, Chairman Coble, Ranking Member Nadler, and esteemed Members of the Subcommittee.

My name is Glen Conrad, and I am currently the Chief Judge of the United States District Court for the Western District of Virginia. I have been Chief Judge since July of 2010, at a time shortly after the designation of the Richard H. Poff Federal Building in Roanoke for a stimulus project under the authority of the American Recovery and Reinvestment Act. As many of you may know, the Poff Federal Building is a multi-tenant building in which the United States District Court and the Veterans Administration are the two major tenants. Thank you for the opportunity to share our court's experiences as the ARRA project unfolded, with emphasis on our interaction with GSA.

The theme of my testimony this morning is that the quality of the final product achieved through the expenditure of the Poff stimulus funds was greatly diminished because Third Branch officials did not have the opportunity to offer input during the project's design phase and the planning stages. I also suggest that the compromise in the court's performance of its constitutional function during the construction phase could have been better managed had there been more precise communication between the GSA and the court.

As indicated, I was not Chief Judge of our court when the Poff Federal Building was designated for stimulus funds. Judge James P. Jones, who sits in the Abingdon Division of the court, was Chief Judge in 2009, when we were first advised that the Roanoke Federal Building had been selected.

During this period of time, among other efforts, Judge Jones attempted to convince various officials in several branches of government that construction of a new courthouse would be greatly preferable to renovation of the court's space at the Poff Federal Building. However, by the time I became Chief, it had been determined to move forward with the Roanoke project. I attended two meetings with GSA officials, representatives from the project contractor, and our court's unit executives in the summer of 2010 and the spring of 2011. The second meeting

focused on security issues. At the first meeting, GSA representatives and contractor representatives explained how the work would proceed, including the temporary relocation of all tenants other than the court, the dislocation of the court personnel as the window removal and replacement proceeded, and the precautions that had been undertaken to promote security given the influx of so many construction workers into areas of the building occupied by the court.

In short, to my knowledge, at no point were any of the court's representatives accessed, consulted, or questioned by GSA as to how this remarkable infusion of money could be utilized so as to produce a more serviceable and functional courthouse facility. Moreover, while the GSA and the contractor issued schedules, timetables, and marching orders for the construction phase, the court simply was not provided with information as to the extent of the dislocation and construction impact that we were to experience over the next several years. Except for those limited contacts, it was as if a wall of silence had been established between the court on one side, and the project contractor and GSA on the other.

All of this begs the question as to what the court would have communicated, or what measures the court would have implemented, if we had been consulted and advised. Allow me to highlight a few critical considerations.

MULTI-TENANT FACILITY

As indicated, when he was first advised of the proposal for the Poff Building, then Chief Judge Jones' reaction was that the project was not well conceived and that the court, as a major stakeholder, should have the opportunity to participate in a discussion as to whether a stand-alone courthouse would have been a better option. Instead, GSA determined to attempt to extend the life of the already antiquated, multi-tenant Poff Federal Building.

I have heard no one suggest that multi-tenant federal courthouses are not obsolete. Without going into great detail, the simple and regrettable facts are that in today's world, security needs of courts differ greatly from those of other agencies in multi-tenant situations, and that everyone's security interests are substantially compromised when other agencies are thrown together with the court.

Of course, the federal coffers are not unlimited, and it is simply not possible to replace all multi-tenant courthouses. I think Judge Jones' point was that the availability of millions in stimulus funds presented an excellent opportunity to eliminate the problem for at least one small courthouse facility in Roanoke, Virginia.

IMPACT ON THE COURT DURING CONSTRUCTION PHASE

During the construction phase, all of the other tenants in the building were relocated to other locations, with what I understand to have been considerable expense. As for the court, the actual project work necessitated physical dislocation of most of our personnel, and subjected all of us to extreme noise, dust, and inconvenience. Ms. Jennifer Smith, our court architect and project manager, has accompanied me here today to explain some of these problems and to relate how she has interacted with the contractor during the life of the project. For the most part, except for Ms. Smith, the GSA officials responsible for the project avoided contact with me and other court officials, maintaining the wall of silence.

There was one major exception to the general lack of communication. The Poff building is essentially a construct of glass and steel, supported by two concrete walls with brick facades. During the course of the project, it was determined that the west brick facade was unstable and required immediate demolition. It was determined to be necessary to close the building, send the employees home, and stop traffic on a major street within the drop zone of the brick. When the decision to demolish was made, several ranking GSA officials, whose names escape me, made contact, discussed the problem, and considered my input on how the work could be scheduled so as to minimize lost time for the court.

Throughout the demolition process, the GSA officials were in contact with me every day, including weekends to advise as to the status of the work. I commend those officials for their diligence in this respect. However, during that period, I was told that it was unclear as to whether the instability of the wall had been present for some time, or had been caused by the recent construction work. I am now advised that the instability had been present for many years, and was well known. Given that the GSA had found it necessary to close the building on an emergency basis during the project, I can't help but question the measure of safety enjoyed by the employees, the public, and the motorists on the adjoining road during the years prior to the demolition. More to the point for today's purposes, it is difficult to understand how the instability could have gone unaddressed as the engineers examined the building and decided what work to put out for bid. To me, it is inconceivable that the demolition and replacement of the facade could not have been projected as part of the stimulus project. It will now be necessary for GSA to undertake another project for the demolition of the east facade and the replacement of both facades. Again, one cannot help but question the pre-project planning. Nevertheless, I appreciate the willingness of GSA officials on this occasion to discuss the remediation with me.

From my perspective, the biggest detriment caused by the construction work was its impact on the court's conduct of its business and the orderly administration of justice. In order to discharge its responsibilities, the court's employees and the court's facilities must operate in such a fashion as to maintain the court's dignity and to inspire respect and confidence among those who must appear before the court. During those days in which the building was essentially boarded up from the outside, with ingress and egress being greatly restricted, the courthouse facility in Roanoke simply did not fulfill this purpose. At the outset of the project, if we had been aware of the extent of the dislocation, inconvenience, and extreme construction zone conditions that we were to experience, the court could have arranged to move many of our court proceedings to other divisions, and we could have arranged for construction-free days during which to bring in litigants, criminal defendants, and their families, without impediment. Once again, in this additional respect, I believe that in the pre-project planning, the court's function and role, and the importance of its image, were simply not considered by those who oversaw the project.

SECURITY

Regrettably, despite the expenditure of substantial sums, security in the Poff Federal Building has not been enhanced. In one critical respect, our security is diminished as a result of the renovations. When the federal courts were first advised of the stimulus projects throughout the country, one of the heralded purposes was to address “unmet security” needs. At one of the two initial meetings I attended, numerous enhancements were discussed, including security fencing, additional security cameras, and fortified security gates. However, no security enhancements were ultimately included in the Poff Building stimulus work. Instead, in the waning days of the project, the court and other tenants were advised that if the tenants want security enhancements, each tenant must pay a pro rata share, separate and apart from the stimulus project. Of course, the court is currently without funds to pay its share for these enhancements. However, if, at the beginning of the project, GSA knew that it would not be funding the security enhancements, I simply cannot understand why GSA did not share this information with the court and other tenants so that some effort could have been made to try to arrange for necessary appropriations. Once again, security at the Poff Building has not yet been improved, and is probably compromised as a result of the renovation.

FUNCTIONALITY

For me, the most bothersome and disturbing reality is that five years from announcement of the Poff Stimulus Project, and after expenditure of millions of dollars, the user functionality in the court portion of the building has not been enhanced whatsoever, in any way, shape, or form. Despite suffering years of inconvenience and hardship, our employees find that their working environment is the same. The HVAC system still heats in the winter and cools in the summer, just as before. As far as I know, all of the renovated restrooms in the building serve the same purpose as before.

The Poff Federal Building was constructed in the 1970s. The existing building has multiple design flaws that impede efficiency and safety, and cause difficulty for the court, its employees, jurors, attorneys, visitors, and employees of other agencies as they traverse areas designated for court use in order to reach their places of work. Most of these design flaws could have easily been remedied, in most cases at minimal expense. For example, the jury room serving the second floor courtroom has no point of entry other than through the courtroom. This means that, at the conclusion of a criminal trial, the jurors are compelled to exit through the courtroom, past the defendant and his family, in order to leave. This potentially volatile situation could easily have been avoided by adding another exit

to the jury room. As another problem, the employee entrance to the building for all the tenants is through the lobby area for that same second floor courtroom. This means that on many days, employees for all of the tenants are compelled to reach their elevators by walking through groups of people assembled outside the courtroom in preparation for trial. The Court Security Officers find it extremely difficult to police these situations. It could easily have been remedied by adding another entrance to the building on the first floor on the west side.

Perhaps the most striking design flaw is that associated with the grand jury room. The only public point of entry for this critical area is through a private lobby on the east side of the second floor. This means that on grand jury days, other court employees, as well as the Assistant United States Attorneys, must enter the grand jury room by walking through the groups of people who are present as targets, witnesses, or friends. The judges on the second floor, including myself, are included among those employees who must walk through the groups of people with grand jury business on those days. This problem could have been easily remedied by relocating the grand jury room to another floor. I can assure you that I would be more than happy to exchange the new windows in my chambers for a reconfigured grand jury room.

If GSA had collaborated with the court in the design and planning stages, it is reasonable to believe that these and many other design flaws could have been corrected. However, despite the multi-million dollar renovation, these design shortcomings were not identified by GSA and continue to impede the operation of the court to this day. In short, while I understand that it was necessary to commit and utilize the stimulus funds as quickly as possible, and even given that the Roanoke money would not be used for construction of a new facility, I do believe that GSA officials could have effectively consulted with the court executives to improve the existing facility in a meaningful fashion.

CONCLUSION

During my 39 years in the Western District of Virginia, it has been my experience that court officers and GSA officials work reasonably well together when they engage in open discussion and free exchange of ideas and information. On this occasion, however, I must conclude that we did not enjoy positive collaboration with GSA on the Poff stimulus project, and that, as a result, the final product suffered. I hope that my comments will prove useful in helping to ensure that other courts will have better experiences in the future.