

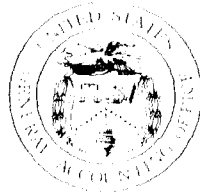
GAO

Fact Sheet for the Chairman,
Subcommittee on Government
Information, Justice, and Agriculture,
Committee on Government Operations,
House of Representatives

December 1989

INFORMATION REQUESTS

Department of Justice's Response to Requests for Court Tax Decisions



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United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-237795

December 13, 1989

The Honorable Bob Wise
Chairman, Subcommittee on Government
Information, Justice, and Agriculture
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This fact sheet responds to your August 29, 1989, request for specific information on the Department of Justice's costs in providing copies of court decisions on tax matters under the Freedom of Information Act (FOIA). On November 3, 1989, we briefed your office on the results of our work. This letter summarizes the information discussed.

The information contained in this report was obtained through interviews with Justice Department Tax Division officials and reviews of legal briefs and agency records. As agreed with the subcommittee, we did not verify the accuracy of the cost data provided.

BACKGROUND

In November 1984, Tax Analysts, a company that publishes tax decisions, submitted an FOIA request for the Justice Department to provide district court tax decisions. Justice denied this and subsequent requests. As a result, in June 1985, Tax Analysts sued the Justice Department to make it provide copies of these decisions. The Justice Department argued that the court decisions requested were not agency records and were available from the district courts. Further, Justice said the company wanted to obtain the documents from Justice rather than the courts because it would cost the company much less. Justice argued that it would incur additional costs to provide these available documents. Justice was also concerned that it would receive similar FOIA requests for documents that it obtained but did not generate. However, officials said that as of November 1989 this had not happened. On June 23, 1989, the Supreme Court ruled that under FOIA the Justice Department was required to make district court tax decisions available to requesters. (United States v. Tax Analysts, 109 S.Ct. 2841.)

JUSTICE'S RESPONSE TO THE DECISION

On July 25, 1989, in response to the Supreme Court's decision, Justice's Tax Division set up a reading room to contain all of the district and circuit court tax decisions, opinions, orders, and related memoranda received from that date forward. Their four trial sections, responsible for specific regions across the country, and their Office of Special Litigation receive all incoming tax decisions from the district and circuit courts in their particular region. These decisions are duplicated, collected weekly, and then forwarded to a central reading room. This reading room is staffed with a monitor and open for public use--mainly tax decision publishers--twice weekly.

COST OF PROVIDING READING ROOM SERVICE

Tax Division officials estimate that it will cost about \$23,500 to operate the reading room the first year. These costs include:

- \$7,500 for space rental;
- \$6,000 for copies provided;
- \$6,000 for the salary and benefits of the monitor; and
- \$4,000 for incidentals, including salaries associated with duplicating the decisions in the regional trial sections and the Office of Special Litigation.

Officials said that the reading room's start-up costs were minimal since they used previously procured equipment (filing cabinets, copier, tables, etc.). Therefore, they anticipate that annual costs will remain about \$23,500.

Under the FOIA, agencies are limited to charging fees for the costs of searching, reviewing, and copying requested documents. Justice is only providing copying services. It charges 10 cents a page for materials duplicated to cover the cost of copying court decisions. According to Justice officials, the revenues that are generated from making copies will represent less than a third of the Tax Division's annual costs to operate the reading room.

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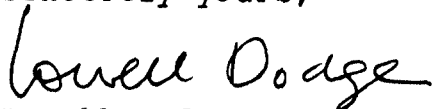
We discussed the results of our review with Tax Division officials. They agreed with the facts as presented.

B-237795

As arranged with the Subcommittee, unless you publicly announce its contents earlier, we plan no further distribution of this fact sheet until 30 days from the date of issuance. At that time, we will send it to interested parties and make copies available to others upon request.

The major contributors to this fact sheet are listed in the appendix. If you have any questions on the contents of the fact sheet, please call me on 275-8389.

Sincerely yours,

A handwritten signature in cursive script that reads "Lowell Dodge".

Lowell Dodge
Director, Administration
of Justice Issues

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