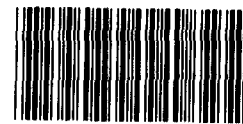


April 1993

FINANCIAL AUDIT

Expenditures by Three Independent Counsels



148967



Accounting and Financial
Management Division

B-250044

April 21, 1993

Congressional Committees

This report presents the results of our audits of expenditures reported by three independent counsels during 6-month periods ended on or before September 30, 1992. Independent counsels and the Department of Justice are required under 28 U.S.C. 594 to report on expenditures from a permanent, indefinite appropriation established within Justice to fund independent counsel activities. We are required under 28 U.S.C. 596 and Public Law 100-202 to audit those expenditures.

Results in Brief

For the periods we audited, the three independent counsels reported that they spent \$5.7 million. This included expenditures of \$2.9 million for Independent Counsel Arlin M. Adams, \$2.8 million for Independent Counsel Lawrence E. Walsh, and \$27,000 for the third independent counsel, whose identity is sealed by court order. We found the reported expenditures to be reliable in all material respects.

In our October 1992 report on our first audit of independent counsels,¹ we identified a number of serious internal control weaknesses at independent counsels' offices and the Administrative Office of the U.S. Courts (AOUSC), which performs the disbursing and accounting functions for independent counsels. These weaknesses included inadequate procedures to ensure that expenditures were charged properly and inadequate segregation of duties. For the current audit period, which preceded our October 1992 report, we found many of the same weaknesses.

Also, in our October 1992 report, we identified expenditures for pay and travel that were inconsistent with laws and regulations. Similar expenditures were made during the current audit period. In October 1992, Independent Counsel Walsh requested a waiver of reimbursements for unallowable costs. In our consideration of this request, we examined each category of overpayment to determine if the payments were based upon erroneous advice from government officials and if the employees knew or should have known that they were not entitled to the payment. In many instances, the expenditures were made following advice from government officials, and in no case was there any indication that the independent counsels or their staffs knew or should have known they were not entitled to the payment. Our review also disclosed a technical deficiency in the

¹Financial Audit: Expenditures by Nine Independent Counsels (GAO/AFMD-93-1, October 9, 1992).

law. This deficiency led to the absence of an authorization to pay travel expenses for independent counsels and their staffs while away from home or their regular places of business. Such an authorization to pay travel expenses is routinely provided for other persons employed by the government on a temporary basis such as experts and consultants or members of certain boards or commissions.

On the basis of our review, we concluded that there was no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the independent counsels or their staffs with regard to these expenditures. Accordingly, on February 5, 1993, consistent with prior case law under the waiver statute, we waived any claims for reimbursement for those expenditures from Independent Counsel Walsh and the other independent counsels.

In response to the many problems identified in our October 1992 report, and subsequent to the period of this audit, independent counsels and AOUSC officials have begun to take actions designed to strengthen controls and ensure compliance with laws and regulations. Those actions include increasing segregation of duties and discontinuing certain types of expenditures which we identified as being inconsistent with laws and regulations. In future audits, we will evaluate whether these actions will be effective in resolving the problems we identified. Independent counsel office officials informed us that the only noncompliances not discontinued were expenditures by Independent Counsels Adams and Walsh for travel and subsistence expenses not specifically authorized by the independent counsel law. As pointed out in our October 1992 report, we believe these expenditures should be allowed to continue while the Congress has an opportunity to address what we believe is an oversight in the law.

Background

The independent counsel provisions of the Ethics in Government Act of 1978 (28 U.S.C. 591-599) established a process for the appointment of independent counsels to preserve and promote the accountability and integrity of public officials and of institutions of the federal government. The law provided for the judicial appointment of temporary, special prosecutors² when the Attorney General determined that reasonable grounds existed to warrant further investigation of high-ranking executive branch officers or presidential campaign officials for certain crimes. The authority to appoint independent counsels expired on December 15, 1992.

²In 1983, the title of these positions was changed from special prosecutor to independent counsel.

However, independent counsels active at that time are authorized to continue their operations.

Independent Counsels Adams and Walsh are continuing under the expired authority. The third independent counsel included in our audit filed his final investigative report on July 15, 1992. An additional independent counsel, Joseph E. diGenova, was appointed on December 14, 1992, to investigate a preelection search of passport files and will be covered in our next audit.

The law directs Justice to pay all costs relating to the establishment and operation of independent counsel offices. AOUSC has provided services to independent counsels pursuant to formal agreement with Justice. In July 1986, Justice entered into the current agreement to pay AOUSC an administrative fee of 3 percent of expenditures to perform most of the disbursement and accounting functions for independent counsels. Typically, administrative officers for independent counsels submit payment requests to AOUSC for independent counsel transactions. AOUSC receives the requests and any supporting documentation, disburses the necessary funds, and records the transactions in its accounting records. AOUSC also generally prepares a monthly report summarizing expenditures and submits it to each independent counsel.

In December 1987, the Congress established a permanent, indefinite appropriation within Justice to fund expenditures by independent counsels. Independent counsels are required to file reports of their expenditures from the appropriation with a division of the U.S. Court of Appeals for the District of Columbia every 6 months. Justice is required to report to the Congress on such expenditures from the appropriation 30 days following the end of each fiscal year. We are required to audit the expenditures from the appropriation and to report our findings to appropriate committees of the Congress. Table 1 shows expenditures by the three independent counsels audited.

Table 1: Summary of Expenditures by Independent Counsels Audited for 6-Month Periods Ending On or Before September 30, 1992

Expenditures	Counsel		
	Adams	Walsh	Sealed-1991
Personnel compensation and benefits	\$1,107,743	\$1,503,814	\$16,078
Travel	166,298	96,861	0
Rent, communications, and equipment	479,658	659,524	4,639
Contractual services	1,020,845	344,762	5,571
Supplies and material	20,836	54,814	0
Acquisition of capital assets	95,190	43,897	0
Administrative services	58,384	81,635	996
Total	\$2,948,954	\$2,785,307	\$27,284

Independent counsels are not required to and do not include the cost of all their activities in reported expenditures. Independent counsels often incur costs that are paid from appropriations other than the permanent, indefinite appropriation. These costs arise, for example, from the use of detailees from other federal agencies, such as the Federal Bureau of Investigation (FBI). The nature of these other costs are identified and discussed in the appendixes to this report.

In order to carry out their financial operations and to ensure accountability, independent counsels should

- prepare statements of expenditures;
- establish and maintain internal controls and systems to provide reasonable assurance that assets are safeguarded, transactions are properly accounted for, and laws and regulations are complied with; and
- comply with applicable laws and regulations.

Objectives, Scope, and Methodology

This report covers our audits of expenditures reported by three independent counsels' offices during 6-month periods ended on or before September 30, 1992.

We performed our work in accordance with generally accepted government auditing standards. In accordance with these standards, we have the responsibility to obtain reasonable assurance about whether the statements of expenditures reported by independent counsels are free of material misstatement and presented fairly in accordance with the bases of accounting described in accompanying notes. We also determined

whether relevant internal controls were in place and operating effectively and tested compliance with certain provisions of selected laws and regulations.

Specifically, for each office we

- examined, on a test basis, evidence supporting the amounts and disclosures in the statement of expenditures and notes thereto, except items indicated as unaudited;
- assessed the accounting principles used and significant estimates made by management;
- evaluated the overall presentation of the statement of expenditures; and
- evaluated and tested selected internal controls encompassing financial reporting, payroll, travel, and procurement of goods and services.

For each office, we also tested compliance with certain aspects of selected provisions of

- the independent counsel provisions of the Ethics in Government Act of 1978, 28 U.S.C. 591-599;
- 5 U.S.C. Chapter 55, and implementing regulations, relating to pay administration;
- 5 U.S.C. Chapter 57, and the Federal Travel Regulations, relating to travel, transportation, and subsistence allowances;
- the following laws relating to the procurement of goods and services: section 111 of the Federal Property and Administrative Services Act, 40 U.S.C. 759; 41 U.S.C. 5; the Competition in Contracting Act, 41 U.S.C. 253, et seq.; and selected provisions of the Federal Acquisition Regulation; and
- 40 U.S.C. 490 and implementing regulations relating to the leasing of office space.

We directed our work to accounting and other controls necessary to support reported expenditures. We did not evaluate the efficiency or effectiveness of independent counsels' operations or the internal controls relevant to operating objectives. Also, we did not review or evaluate the effectiveness of new procedures instituted by AOUSC and independent counsels after the current audit periods. We will evaluate those procedures in our future audits of independent counsels.

We limited our work to accounting and other controls necessary to properly record, process, and summarize transactions to permit the preparation of expenditure statements; to maintain accountability for

assets; and to ensure the execution of transactions in accordance with provisions of laws and regulations we tested.

We obtained, but did not audit, information on costs that are not paid from the permanent, indefinite appropriation established to fund independent counsel activities. We obtained information from the independent counsels' offices on these costs and from the Department of Justice, including the FBI; the Internal Revenue Service; and the Inspector General of the Department of Housing and Urban Development.

We interviewed officials at the Department of Justice, AOUSC, and independent counsels' offices to determine what, if any, actions had been taken to improve controls and make needed corrections since our last audit.

We discussed the results of our work with the three independent counsels or their representatives and with representatives of Justice and AOUSC and incorporated their comments where appropriate.

Expenditures

For the 6-month periods under review, the three independent counsels reported that they spent \$5.7 million. This included expenditures of \$2.9 million for Independent Counsel Adams, \$2.8 million for Independent Counsel Walsh, and \$27,000 for the sealed independent counsel. We audited the expenditure reports for all three offices and determined that the statements of expenditures for each of them presented fairly, in all material respects, the expenditures of these offices. The statements of expenditures and related notes regarding bases of accounting and additional pertinent information are provided in appendixes I through III.

Internal Controls

Serious internal control weaknesses discussed in our previous report included inadequate procedures to ensure that expenditures were charged properly and inadequate segregation of duties. The weaknesses remained substantially unchanged during the audit period, which preceded our October 1992 report. The only significant difference during the current audit period was in Independent Counsel Walsh's office. In November 1991, his office hired a financial officer and assigned him responsibility for tracking financial expenditures. He began maintaining detailed accounting records which allowed verification of financial information supplied by AOUSC and helped ensure that financial reporting was accurate.

We were not able to opine on expenditure reports in our previous audits, largely because of numerous internal control weaknesses. However, we were able to extend our testing and opine on expenditure reports in these audits, although the internal control weaknesses continued.

In response to the many problems identified in our report on expenditures by nine independent counsels issued in October 1992, independent counsels and AOUSC officials have begun to take actions designed to strengthen internal controls and ensure compliance with laws and regulations. In future audits, we will evaluate whether these actions will be effective in resolving the problems we identified. Some of the actions taken by each organization are discussed below.

**Administrative Office of
the U.S. Courts**

In October 1992, we reported that AOUSC had a number of problems, including inadequate procedures to ensure that it charged expenditures to the appropriate independent counsel or category. We also reported that AOUSC's computer system contained material errors related to independent counsel expenditures; AOUSC made material errors in manually preparing its expenditure reports from its computerized records; and AOUSC did not follow consistent accounting period cut-off procedures. AOUSC officials acknowledged many of the problems identified in our previous report and informed us that the report helped them to focus their efforts to improve AOUSC's automated systems and internal procedures. Actions AOUSC has taken include the following:

- A central point of contact has been appointed to act as an ombudsman and to oversee the day-to-day activities of AOUSC in support of the independent counsels.
- The course of administrative paperwork has been altered to flow through the central point of contact for review.
- The Deputy Program Assessment Officer is responsible for coordinating with the central point of contact, the Office of General Counsel, and the Office of Legislative and Public Affairs, to identify and handle any procedural and policy issues arising from AOUSC's role as a support provider.
- AOUSC has begun development of training sessions for newly appointed administrative officers to the independent counsels to help alert them to the pertinent roles and responsibilities of their positions.
- AOUSC staff processing independent counsel expenditures have been instructed to consult with supervisors or the Office of General Counsel for

an opinion on any transactions that may appear unusual or out of the ordinary.

- AOUSC's Contracts Branch has developed written procedures for all procurement actions in support of the independent counsels.
- AOUSC has adopted a policy whereby no independent counsel bills will be processed for payment without prior written approval from the independent counsel's office.
- AOUSC has revised its internal procedures to ensure that independent counsel verification of receipt of goods and services is available prior to processing invoices for payment.

**Independent Counsel
Adams**

Independent Counsel Adams has taken a number of actions in response to our previous report. Some of those actions are described below.

- We stated in our previous report that because duties in this and other offices were not adequately segregated, inordinate opportunities could exist which would allow a person to institute and execute improper transactions without those transactions being detected. For example, prior to our previous report, only one individual reviewed and certified all payroll transactions in Mr. Adams' office. In October 1992, Mr. Adams hired a payroll clerk whose duties included reviewing and initialing time and attendance records before certification by the administrative officer.
- We stated in our previous report that most of the travel in Mr. Adams' office lacked required authorizations or approvals before the travel occurred. Effective November 1992, Mr. Adams instituted procedures requiring written authorizations before travel arrangements were made.
- We stated in our previous report that AOUSC regularly paid airline bills for independent counsel travel without comparing airline bills with independent counsel employees' travel vouchers or any other supporting evidence that the expenses were incurred. In January 1993, Mr. Adams' office, after conferring with AOUSC, implemented procedures whereby all airline billings will be sent directly to the office. Upon receipt of the bill, staff of Mr. Adams' office will be responsible for verifying that the travel had been approved and travel costs incurred before submitting the bill to AOUSC for payment.

**Independent Counsel
Walsh**

Independent Counsel Walsh also has taken a number of actions in response to our previous report. Some of these actions are described below.

- We stated in our previous report that duties in Mr. Walsh's office also were not adequately segregated. Prior to our previous report, Mr. Walsh's administrative officer was responsible for authorizing salary increases and for certifying payroll transactions. In November 1992, Mr. Walsh began authorizing all salary increases. Also, prior to our previous report, there was inadequate review of procurement and travel payments authorized by the administrative officer. In November 1992, Mr. Walsh's financial officer began reviewing the transactions authorized by the administrative officer.
- We stated in our previous report that travel in Mr. Walsh's office was often made without authorizations or approvals. Effective October 1992, Mr. Walsh's office adopted procedures requiring written travel authorization to be submitted to the administrative officer for approval.

Compliance With Laws and Regulations

In our previous report, we identified instances of noncompliance with laws and regulations relating to pay, travel, and procurement. Instances of noncompliance related to these same areas continued during the current audit period, which as discussed earlier, preceded our previous report. We did not identify any new issues related to noncompliance with laws and regulations during our current audit. Independent counsels informed us that, with one exception, they discontinued the types of noncompliance we identified in our previous report. The only exception was reimbursement for independent counsels' travel between their residences and Washington, D.C., where they perform most of their duties. As stated in our previous report, we believe there was a technical deficiency or oversight in the independent counsel law regarding reimbursement for such travel and, accordingly, we reported that we would not object to continuation of these reimbursements in order to allow the Congress an opportunity to address the issue.

Waivers

On October 5, 1992, Independent Counsel Lawrence E. Walsh requested a waiver of reimbursements for unallowable costs. In our consideration of this request, we examined each category of overpayment to determine if payments were based on erroneous advice from government officials and if employees knew or should have known that they were not entitled to the payment. We also considered the technical deficiency in the law discussed above. This deficiency led to the absence of an authorization to pay travel expenses for independent counsels and their staffs while away from home or their regular places of business. Such an authorization to pay travel expenses is routinely provided for other persons employed by the

government on a temporary basis such as experts and consultants, or members of boards or commissions.

On February 5, 1993, we granted a waiver to Independent Counsel Walsh. On the same day, we also granted waivers to Independent Counsel Adams and to other independent counsels covered in our previous audit.³ Section 5584(a) of title 5, United States Code, authorizes the Comptroller General to waive a claim of the United States against a person arising out of an erroneous payment of pay or allowances, including travel expenses, "the collection of which would be against equity and good conscience and not in the best interests of the United States . . ."

Our regulations implementing 5 U.S.C. 5584 provide in this regard:

"Waiver may be granted only when collection would be against equity and good conscience and not in the best interests of the United States. Generally, these criteria will be met by a finding that the erroneous payment occurred through administrative error and that there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee . . . having an interest in obtaining a waiver of the claim."

Many of the expenditures for unallowable costs which were waived resulted from the technical deficiency in the law or were made based upon erroneous advice. During the course of our audits, we found no indication that the erroneous payments in question occurred as a result of fraud, misrepresentation, fault, or lack of good faith. Nor did we find any indication that the affected independent counsels knew or reasonably should have known of the errors.

Other Clarifications Needed

In our previous report, we discussed two other areas which we believe could be improved through congressional action if the independent counsel law is reauthorized. Those areas are discussed below.

Delineation of Responsibility

We previously reported that neither independent counsels nor AOUSC had taken the necessary steps to ensure that reported expenditures were accurate and that effective controls were in place to ensure compliance with all laws and regulations. Justice, too, had not taken steps in this regard, largely because of concerns that it not interfere with the independence of counsel offices. As a result, there was a serious breakdown in the accountability over independent counsel administrative

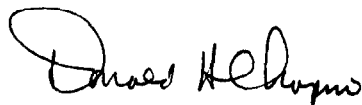
³GAO's letters dated February 5, 1993 (B-250044).

operations. We continue to believe that, if the independent counsel law is reauthorized, the Congress should clearly delineate the administrative responsibilities of independent counsels, Justice, and any other government agencies. Such clear delineations would help resolve conflicting views on the administrative and accounting responsibilities regarding independent counsel expenditures.

Comprehensive Guidance

Controls to help prevent noncompliance with laws and regulations have been inadequate, particularly the absence of any comprehensive guidance which identifies and explains the laws and regulations affecting the administration and operation of independent counsel offices. As temporary offices without the administrative support functions typical of permanent executive branch agencies, it may be unrealistic to expect every independent counsel office to have a comprehensive understanding of the laws and regulations governing personnel, procurement, and other administrative matters. Further, relying on each office to arrive at its own view of the applicable administrative rules invites inconsistency and error. Therefore, we believe that comprehensive guidance on applicable laws and regulations should be developed if the independent counsel law is reauthorized. As discussed above, specific responsibility should be assigned for this and other matters related to independent counsels.

We are sending copies of this report to congressional requesters, the Attorney General, the Director of the Administrative Office of the U.S. Courts, the three independent counsels included in our audit, the newly appointed independent counsel, and other interested parties. Copies will be made available to others upon request.



Donald H. Chapin
Assistant Comptroller General

List of Committees

**The Honorable Robert C. Byrd
Chairman**

**The Honorable Mark O. Hatfield
Ranking Minority Member
Committee on Appropriations
United States Senate**

**The Honorable John Glenn
Chairman**

**The Honorable William V. Roth, Jr.
Ranking Minority Member
Committee on Governmental Affairs
United States Senate**

**The Honorable Joseph R. Biden
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**The Honorable Orrin Hatch
Ranking Minority Member
Committee on the Judiciary
United States Senate**

**The Honorable William Natcher
Chairman**

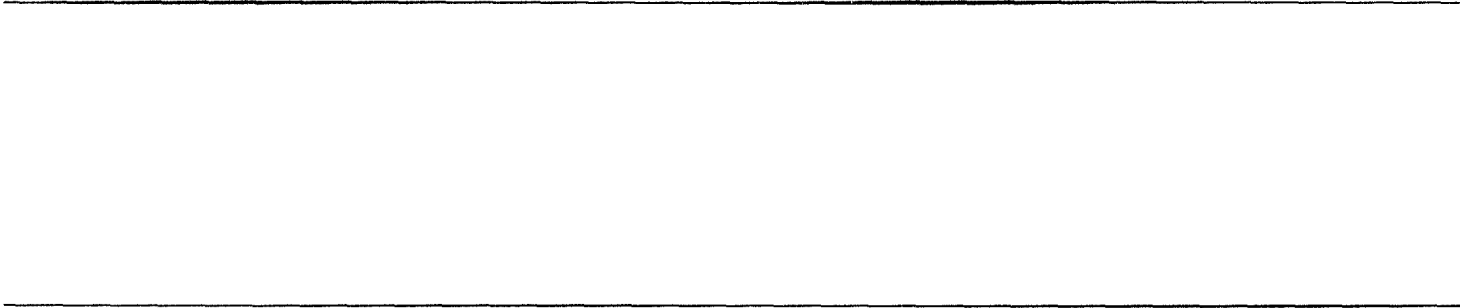
**The Honorable Joseph M. McDade
Ranking Minority Member
Committee on Appropriations
House of Representatives**

**The Honorable John Conyers, Jr.
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**The Honorable William Clinger
Ranking Minority Member
Committee on Government Operations
House of Representatives**

**The Honorable Jack Brooks
Chairman**

**The Honorable Hamilton Fish, Jr.
Ranking Minority Member
Committee on the Judiciary
House of Representatives**



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Abbreviations

AOUSC	Administrative Office of the U.S. Courts
FBI	Federal Bureau of Investigation
HUD	Department of Housing and Urban Development
IRS	Internal Revenue Service
OIC	office of independent counsel
OPM	Office of Personnel Management

Statement of Expenditures for Independent Counsel Adams

ARLIN M. ADAMS

Office of Independent Counsel

Statement of Expenditures
(Cash basis)

Six Months Ended June 30, 1992

Personnel compensation and benefits	\$1,107,743
Travel	166,298
Rent, communications, and equipment (note 3)	479,658
Contractual services (note 4)	1,020,845
Supplies and materials	20,836
Acquisition of capital assets	95,190
Administrative services (note 5)	<u>58,384</u>
Total expenditures	<u>\$2,948,954</u>

The accompanying notes are an integral part of this statement.

**Appendix I
Statement of Expenditures for Independent
Counsel Adams**

ARLIN M. ADAMS

Office of Independent Counsel

Notes to Statement of Expenditures

Note 1 - Accounting policies

Reporting entity: The accompanying statement of expenditures presents the expenditures of the Office of Independent Counsel (OIC) - Arlin M. Adams on a cash basis, for the 6-months ended June 30, 1992. Mr. Adams was appointed on March 1, 1990, to investigate the administration of various programs of the Department of Housing and Urban Development (HUD) from 1983 to 1989. OIC Adams' investigation is ongoing. As of June 30, 1992, OIC Adams had 32 full-time and 5 part-time employees.

Basis of accounting: The accompanying statement of expenditures was prepared principally on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles. Consequently, except for payroll and employee benefits, expenditures are recorded when the funds are disbursed by the Administrative Office of the U.S. Courts (AOUSC) or, for noncash transfers, when charged by AOUSC. Payroll and related employee benefits are recorded at the end of the pay period when earned. The cost of purchased capital assets, which principally consist of office equipment and furniture, is recorded in the statement of expenditures when paid. These assets remain with the federal government when they are no longer needed by the OIC.

Note 2 - Contingency

Under the applicable laws governing federal employee retirement coverage and the regulations implemented by the Office of Personnel Management (OPM), federal employees appointed for periods exceeding 1 year generally are covered by the federal employee retirement system. Certain employees of offices of independent counsel with qualifying appointments were not provided retirement coverage. In August 1992, AOUSC determined that these employees should be retroactively provided retirement plan coverage and is now reviewing individual employee personnel files to determine specific coverage requirements. The ultimate cost of providing retroactive retirement coverage, which cannot presently be determined, is dependent upon the completion of the review of individual personnel files and the concurrence of OPM.

Appendix I
Statement of Expenditures for Independent
Counsel Adams

Note 3 - Rent, communications, and equipment

Approximately \$442,000 in office rent is included in rent, communications, and equipment.

Note 4 - Contractual services

AOUSC, acting on behalf of OIC Adams, contracted with the OIC's landlord to relocate the office to larger space within the building. Included in contractual services is approximately \$385,000 which was paid to the landlord for renovations and security improvements made to the new office space. Other significant contractual services include litigation support and court reporting.

Note 5 - Administrative services

AOUSC earns an administrative fee equal to 3 percent of OIC expenditures to perform disbursement and accounting functions for OIC Adams. Payment of these fees generally occurs in the fiscal quarter following the rendering of the services.

Note 6 - Adjustment to expenditures

As a result of GAO's audit of the statement of expenditures for the 6 months ended June 30, 1992, contractual services was decreased by \$102,816. Correction of the errors which resulted in the adjustment was made by AOUSC prior to the audit, but subsequent to the OIC's submission of the June 30, 1992, expenditure report to the U.S. Court of Appeals for the District of Columbia.

Note 7 - Other operating costs (unaudited)

The statement of expenditures includes only expenditures made from the permanent, indefinite appropriation for the offices of independent counsel that are processed through AOUSC and the OIC. Certain costs relating to employees assigned to work with the OIC by the Federal Bureau of Investigation (FBI), Internal Revenue Service (IRS), and Inspector General of the Department of Housing and Urban Development (HUD) and other assistance provided to the OIC by the Department of Justice were financed through funds appropriated to these agencies and, accordingly, are not included in the statement of expenditures. These agencies are not

**Appendix I
Statement of Expenditures for Independent
Counsel Adams**

reimbursed for these costs. However, the schedule below shows the estimated costs (unaudited) of the assistance provided to the OIC during the 6-month period, based on information provided by officials of these agencies.

	Costs (unaudited)
FBI	\$428,000
Other Justice	5,000
IRS	101,000
HUD Inspector General	<u>122,000</u>
	<u>\$656,000</u>

Statement of Expenditures for Independent Counsel Walsh

LAWRENCE E. WALSH

Office of Independent Counsel

Statement of Expenditures
(Modified-cash basis)

Six Months Ended September 30, 1992

Personnel compensation and benefits	\$1,503,814
Travel	96,861
Rent, communications, and equipment (note 3)	659,524
Contractual services (note 4)	344,762
Supplies and materials	54,814
Acquisition of capital assets	43,897
Administrative services (note 5)	<u>81,635</u>
Total expenditures	<u>\$2,785,307</u>

The accompanying notes are an integral part of this statement.

**Appendix II
Statement of Expenditures for Independent
Counsel Walsh**

LAWRENCE E. WALSH

Office of Independent Counsel

Notes to Statement of Expenditures

Note 1 - Accounting policies

Reporting entity: The accompanying statement of expenditures presents the costs of the Office of Independent Counsel (OIC) - Lawrence E. Walsh for the 6-months ended September 30, 1992. Mr. Walsh was appointed in December 1986, to investigate allegations of crimes relating to the sales of arms to Iran; the diversion of funds to, and other support of, the Nicaraguan Contras; and the prosecution of any indictments stemming from the investigation. OIC Walsh had 44 full-time and 6 part-time employees as of the end of the period.

Basis of accounting: The accompanying statement of expenditures was prepared principally on a modified-cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles. Most expenditures for goods and services are recorded when invoices are received and certified for payment. Certain major expenditures, such as rent, utilities, and administrative fees, are accrued on a monthly basis. Payroll and employee benefits are recorded at the end of the pay period when earned. No accrual is made for salary and benefits earned but not yet paid at the end of the reporting period. The cost of purchased capital assets, consisting of office furniture and equipment, is expensed and no provision is made for depreciation. These assets will remain the property of the federal government after they are no longer needed by the OIC.

Note 2 - Contingency

Under the applicable laws governing federal employee retirement coverage and the regulations implemented by the Office of Personnel Management (OPM), federal employees appointed for periods exceeding 1 year generally are covered by the federal employee retirement system. Certain employees of the office of independent counsel with qualifying appointments were not provided retirement coverage. In August 1992, the Administrative Office of the U.S. Courts (AOUSC) determined that these employees should be retroactively

**Appendix II
Statement of Expenditures for Independent
Counsel Walsh**

provided retirement plan coverage and is now reviewing individual employee personnel files to determine specific coverage requirements. The ultimate cost of providing retroactive retirement coverage, which cannot presently be determined, is dependent upon the completion of the review of individual personnel files and the concurrence of OPM.

Note 3 - Rent, communications, and equipment

Office rent, including heating, ventilation and air conditioning during regular business hours, totaled about \$477,000 during the 6-month period. Also included in rent, communications, and equipment are additional charges of approximately \$101,000 for utility usage during evenings and weekends.

Note 4 - Contractual services

Contractual services consist primarily of protective services, equipment maintenance, litigation support, and court reporting services.

Note 5 - Administrative services

AOUSC earns an administrative fee equal to 3 percent of OIC expenditures to perform disbursement and accounting functions for OIC Walsh. These fees are generally recorded in the period when the services are rendered.

Note 6 - Other expenditures from the independent counsel appropriation

During the 6 months ended September 30, 1992, the Department of Justice made additional expenditures from the independent counsel appropriation for security guard services for the OIC's sensitive compartmented information facility. Payments for these expenditures were made directly by Justice from the independent counsel appropriation and were not processed through the OIC or AOUSC. Accordingly, the cost of these services, which amounted to \$288,000, is not included in the statement of expenditures.

**Appendix II
Statement of Expenditures for Independent
Counsel Walsh**

Note 7 - Other operating costs (unaudited)

The statement of expenditures includes only expenditures made from the permanent, indefinite appropriation for the offices of independent counsel that are processed through AOUSC and the OIC. Certain other costs relating to employees assigned to work with the OIC by the Federal Bureau of Investigation (FBI) and other assistance provided to the OIC by the Department of Justice were financed through funds appropriated to Justice and, accordingly, are not included in the statement of expenditures. Justice is not reimbursed for these costs. However, the schedule below shows the estimated costs (unaudited) of the other assistance provided to the OIC during the 6-month period, based on information provided by Justice officials.

	Costs (unaudited)
FBI	<u>\$162,000</u>
Other Justice	<u>146,000</u>
	<u>\$308,000</u>

Statement of Expenditures for Independent Counsel Sealed-1991

SEALED-1991

Office of Independent Counsel

Statement of Expenditures
(Cash basis)

Six Months Ended September 30, 1992

Personnel compensation and benefits	\$16,078
Rent, communications, and equipment	4,639
Contractual services	5,571
Administrative services	<u>996</u>
Total expenditures	<u>\$27,284</u>

The accompanying note is an integral part of this statement.

**Appendix III
Statement of Expenditures for Independent
Counsel Sealed-1991**

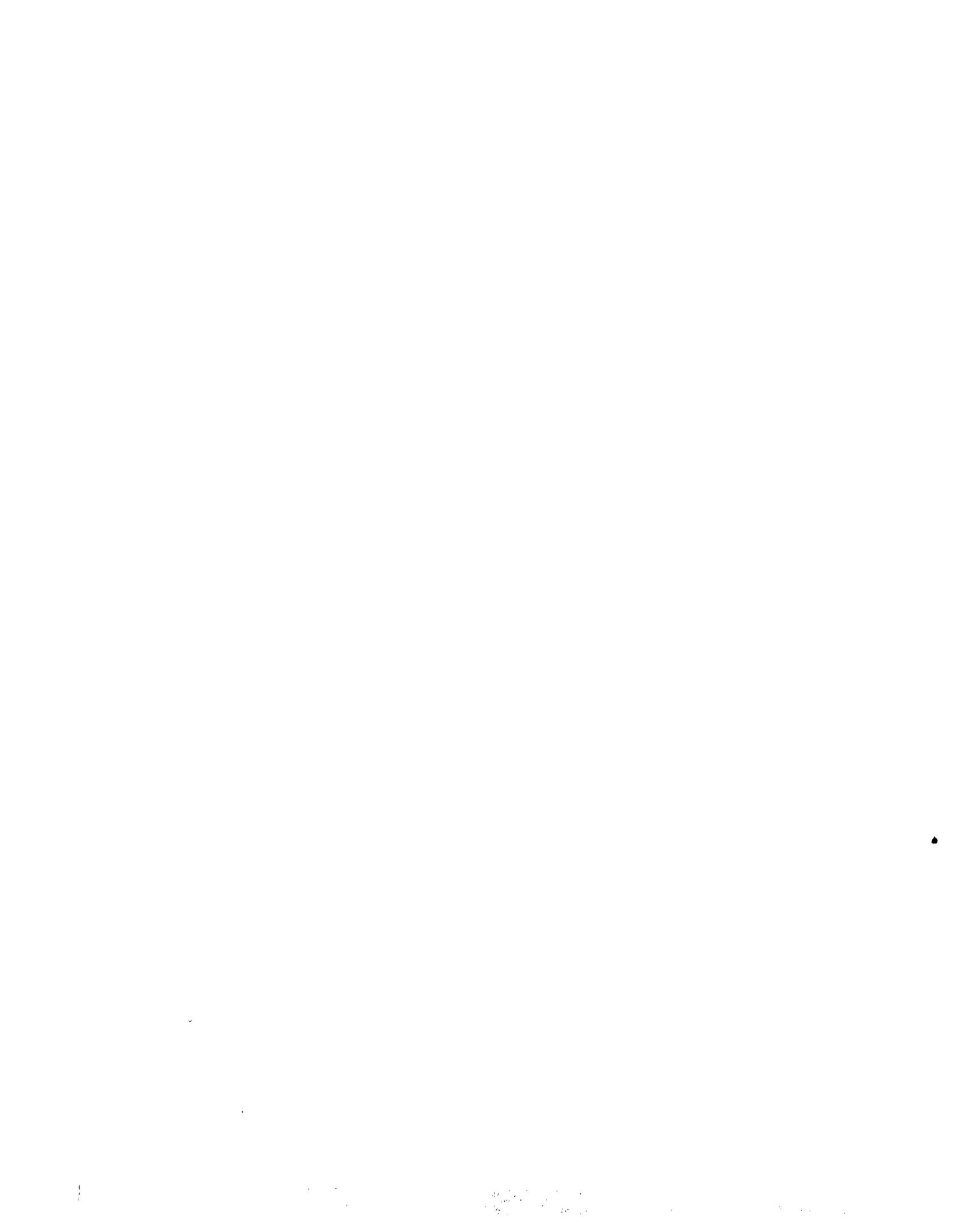
SEALED-1991

Office of Independent Counsel

Note to Statement of Expenditures

Note - Accounting policies

Basis of accounting: The accompanying statement of expenditures for the 6 months ended September 30, 1992, was prepared principally on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles. Consequently, except for payroll and employee benefits, expenditures are recorded when the funds are disbursed by the Administrative Office of the U.S. Courts (AOUSC) or, for noncash transfers, when charged by AOUSC. Payroll and related employee benefits are recorded at the end of the pay period when earned. The independent counsel's final investigative report was filed on July 15, 1992.



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