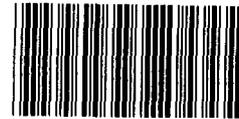


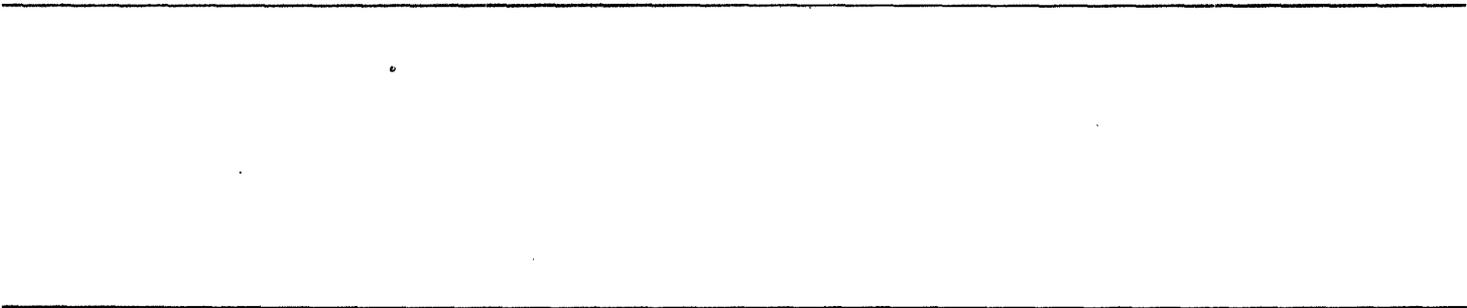
October 1992

# FINANCIAL AUDIT

## Expenditures by Nine Independent Counsels



147731



**Comptroller General  
of the United States**

B-250044

October 9, 1992

Congressional Committees

This report presents the results of our audit of expenditures by nine independent counsels for various periods ended on or before March 31, 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**

According to Justice records, approximately \$43 million was spent by the nine independent counsels through March 31, 1992. However, due to the poor condition of independent counsel records and the existence of serious internal control weaknesses, we were unable to verify the accuracy and completeness of those expenditures. As a result, reported figures give only a general indication of the level of independent counsel expenditures.

Five of the nine independent counsels did not provide some of the reports of their expenditures required by law. We found that expenditures were often incorrectly recorded due to serious internal control weaknesses at offices of independent counsel and the Administrative Office of the U.S. Courts (AOUSC), which through agreement with Justice, performs the disbursing and accounting functions for independent counsels.

In addition, we found that some expenditures were inconsistent with laws and regulations. Some of the instances we identified may be attributable to an oversight or ambiguities in the independent counsel law and a lack of comprehensive guidance to help independent counsels understand and follow operational and administrative legal requirements. Other instances were caused by the independent counsels relying on erroneous advice from AOUSC.

In addition, we noted that independent counsels incur costs, such as for detailees from the Federal Bureau of Investigation, that are not paid from the permanent, indefinite appropriation established to fund independent counsel activities. One independent counsel, for example, had an estimated \$5 million in these costs. There is no requirement to report or audit these costs, and the costs were not separately accounted for by

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independent counsels or federal agencies. Therefore, the reports understate the full costs of independent counsel activities.

The problems we found showed a serious breakdown in the accountability over independent counsel administrative operations, with Justice, AOUSC, and independent counsels having conflicting views on their administrative responsibilities. If the independent counsel law is extended, the Congress should clearly delineate the administrative responsibilities of independent counsels, Justice, and other government agencies.

This report discusses a number of audit findings. We will follow up on these findings in our next audit of independent counsels to determine whether the findings have been appropriately resolved.

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## Background

In 1978, the independent counsel law (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 the institutions of the federal government.<sup>1</sup> The law provides for the judicial appointment of temporary, independent prosecutors when the Attorney General determines that reasonable grounds exist to warrant further investigation of high-ranking executive branch officers or presidential campaign officials for certain crimes.

The law directs Justice to pay all costs relating to the establishment and operation of independent counsel offices. The AOUSC has provided services to independent counsels pursuant to formal agreement with Justice since at least April 1984. 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

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<sup>1</sup>In 1983, the title of these positions was changed from special prosecutor to independent counsel. The authority to appoint independent counsels was most recently extended from December 15, 1987, to December 15, 1992. Independent counsels active on December 15, 1992, are authorized to continue their operations until they terminate.

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.

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

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

Since 1978, twelve independent counsels have been appointed, including nine who have had expenditures from the permanent, indefinite appropriation. According to Justice records, through March 31, 1992, those nine independent counsels charged approximately \$37 million to the permanent, indefinite appropriation and approximately \$6 million to an appropriation that previously funded independent counsel expenditures.

Table 1 lists the nine independent counsels included in our audit. Table 2 and appendixes I through IX provide detailed financial information on the nine independent counsels. Table 2 shows independent counsel expenditures totaling approximately \$39 million, while Justice records show expenditures totaling approximately \$43 million. At least part of the difference is attributable to timing differences and the use of different bases of accounting. None of the figures have been adjusted for audit findings, and we caution that the figures may be only generally indicative of the level of independent counsel expenditures.

**Table 1: Independent Counsels Active Since Establishment of the Permanent, Indefinite Appropriation**

<b>Counsel</b>	<b>Date appointed</b>	<b>Final Investigative report filed</b>	<b>Subject</b>	<b>Appendix</b>
Leon Silverman	June 11, 1985	November 30, 1988	False testimony before Grand Jury	I
Alexia Morrison <sup>a</sup>	May 29, 1986	March 14, 1989	Obstruction of congressional investigation	II
Whitney North Seymour, Jr.	May 29, 1986	August 16, 1989	Representational activities of former government employees	III
Lawrence E. Walsh	December 19, 1986	Ongoing	Iran Contra	IV
James C. McKay	February 2, 1987	July 18, 1988	Lobbying activities	V
James R. Harper <sup>b</sup>	August 17, 1987	December 18, 1987	<sup>c</sup>	VI
Sealed 1989 <sup>d</sup>	May 31, 1989	August 23, 1989	<sup>d</sup>	VII
Arlin M. Adams	March 1, 1990	Ongoing	Housing and Urban Development	VIII
Sealed 1991 <sup>d</sup>	April 19, 1991	July 15, 1992	<sup>d</sup>	IX

<sup>a</sup>James C. McKay was appointed independent counsel from April 23, 1986, to May 29, 1986, on this investigation. He was replaced by Alexia Morrison on May 29, 1986.

<sup>b</sup>Carl S. Rauh was appointed independent counsel on this investigation from December 19, 1986, to August 17, 1987. He was replaced by James R. Harper on August 17, 1987.

<sup>c</sup>The subject of the investigation is sealed by court order.

<sup>d</sup>The name of the independent counsel and the subject of investigation are sealed by court order.



**Table 2: Independent Counsels  
Summary of Expenditures**

<b>Counsel</b>	<b>Personnel compensation and benefits</b>	<b>Travel expense</b>	<b>Rent, communications, and equipment</b>
Silverman	\$ 0	\$ 3,400	\$ 1,700
Morrison	940,000	59,000	408,000
Seymour	1,006,000	174,000	70,000
Walsh	16,512,000	1,010,000	8,257,000
McKay	1,481,000	106,000	482,000
Harper	0	7,900	1,600
Sealed 1989	10,000	200	1,700
Adams	2,354,000	206,000	339,000
Sealed 1991	21,000	200	34,500
<b>Total</b>	<b>\$22,324,000</b>	<b>\$1,566,700</b>	<b>\$9,595,500</b>

Contractual services	Supplies and material	Acquisition of capital assets	Administrative services	Total expenditures
\$ 1,900	\$ 0	\$ 0	\$ 200	\$ 7,200
32,000	20,000	30,000	37,000	1,526,000
93,000	18,000	59,000	40,000	1,460,000
2,135,000	562,000	1,167,000	660,000	30,303,000
178,000	50,000	128,000	66,000	2,491,000
9,000	100	0	800	19,400
2,800	0	0	400	15,100
237,000	62,000	173,000	76,000	3,447,000
3,400	0	5,300	1,400	65,800
<b>\$2,692,100</b>	<b>\$712,100</b>	<b>\$1,562,300</b>	<b>\$881,800</b>	<b>\$39,334,500</b>

Note: This statement summarizes the expenditures of each independent counsel as presented in appendixes I through IX. The expenditures presented are for varying time periods and are generally prepared on the cash basis of accounting. See the notes to appendixes I through IX for further information on these expenditures. None of the figures have been adjusted for audit findings, and we caution that the figures may be only generally indicative of the level of independent counsel expenditures.

## Objectives, Scope, and Methodology

This is our first audit of expenditures by seven terminated and two active independent counsels and covers periods ended on or before March 31, 1992. Our next audit will cover expenditures for the 6-month period ending September 30, 1992.

We performed our work in accordance with generally accepted government auditing standards. In accordance with these standards, we attempted to obtain reasonable assurance about whether expenditures reported by independent counsels were reliable. We also determined whether relevant internal controls were in place and operating effectively. We also tested compliance with provisions of selected laws and regulations. We directed our work to accounting and other controls necessary to support reported expenditures and did not evaluate the efficiency or effectiveness of independent counsels' operations.

Specifically, we

- (1) evaluated selected internal controls encompassing
  - financial reporting,

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- payroll,
  - travel, and
  - procurement of goods and services;

(2) examined the available personnel and payroll records for all employees of the nine independent counsels;

(3) examined records for approximately 1,900 travel and procurement transactions recorded on behalf of independent counsels; and

(4) tested compliance with selected provisions of

- the independent counsel law, 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: 28 U.S.C. 604 (a) (10), 612; 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 applicable provisions of the Federal Acquisition Regulation and the Federal Information Resources Management Regulation;
- 31 U.S.C. 1343, 1344, and implementing regulations relating to the acquisition and use of motor vehicles; and
- 40 U.S.C. 490 and implementing regulations relating to the leasing of office space.

Our work did not include the two following issues which have been raised in various media reports, but which did not affect expenditures from federal appropriations:

- the potential state or local tax liability that independent counsels or their employees may have, which are matters within the jurisdiction of the affected state or local governments, and
- allegations of discount lodging provided government officials, which are matters within the jurisdiction of the Office of Government Ethics.

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

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## Required Reports Not Always Issued

As described in the appendixes, five of the nine independent counsels did not provide some of the reports of their expenditures for periods ended on or before March 31, 1992. Also, Justice did not submit required reports 30 days after the end of each fiscal year, although it did provide the appropriation committees with expenditure information through the normal budget process. As we reported in September 1, 1992, letters to the Congressional Leadership, we did not previously audit independent counsels as required because of an administrative error in our tracking system.

The reporting and auditing requirements of the independent counsel law were designed to promote fiscal control and accountability over independent counsel expenditures and to deter the authorization of inappropriate or excessive expenditures. Independent counsels are responsible for accounting for and reporting on their activities. Audits are designed to provide reasonable assurance that amounts reported are presented fairly in accordance with generally accepted accounting principles or another comprehensive basis of accounting. A lack of expenditure reports was one of the reasons we were unable to audit all expenditures. Much more important were internal control weaknesses which adversely affected the accounting process and contributed to some instances of noncompliance with laws and regulations.

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## Internal Control Weaknesses Resulted in Reporting Errors and Contributed to Noncompliance With Laws and Regulations

Like any management entity, independent counsels are responsible for establishing and maintaining effective internal controls to ensure, among other things, that transactions are properly recorded, processed, and summarized. In the case of accounting and disbursing services provided to independent counsels by AOUSC, we believe that independent counsels should assure themselves that AOUSC properly records, processes, and summarizes transactions. However, several independent counsels believed that it was reasonable for them to rely on AOUSC to account for the transactions.

Independent counsels and AOUSC had numerous internal control weaknesses which affected the accuracy of independent counsels' reported expenditures and also resulted in instances of noncompliance with laws and regulations. While we were able to identify a number of reporting errors through our audit work, the nature and extent of the internal control weaknesses precluded us from identifying all possible errors. Also, because neither we nor anyone else has conducted a financial audit of AOUSC, we could not be sure that AOUSC had the necessary controls

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in place to ensure that all disbursements for expenditures on behalf of independent counsels were charged to the permanent, indefinite appropriation.

We also found that controls to help prevent noncompliance with laws and regulations were inadequate, particularly the absence of any comprehensive guidance which identifies and explains 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 Justice, as an executive branch agency familiar with the applicable laws and regulations, is in the best position to develop the comprehensive guidance that will serve as a valuable internal control and should do so if the independent counsel law is extended. Independent counsels would then be in the position to establish the appropriate internal controls for their offices that would ensure that the guidance is consulted and considered.

Justice officials told us that they are and have been available to provide guidance when requested, but that they do not believe they should develop comprehensive guidance because such guidance may be interpreted as interfering with the independence of the counsels. However, because we are not suggesting investigative or prosecutorial guidance, but rather guidance which identifies and explains operational and administrative legal requirements, we do not believe independence would be adversely affected. Several independent counsels agreed with us that their independence would not be adversely affected by such guidance.

The following internal control weaknesses materially affected the reliability of independent counsels' reported expenditures and contributed to instances of noncompliance with laws and regulations.

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**Inadequate Procedures to Ensure That Expenditures Were Charged Appropriately**

We identified approximately \$2.4 million in payroll expenditures that AOUSC initially charged to the wrong independent counsels. AOUSC did not provide us documentation to show whether these errors were ultimately corrected and therefore we were unable to determine whether all payroll costs were accurately reflected in expenditure reports. For example, our

computations showed that reported expenditures for personnel compensation and benefits were overstated by approximately \$245,000 for Independent Counsel Seymour's office and understated by approximately \$236,000 for Independent Counsel Walsh's office.

Also, we identified 15 cases in which AOUSC charged procurement expenditures totaling approximately \$25,000 to the wrong independent counsels and 74 cases totaling approximately \$538,000 in which AOUSC charged both procurement and travel expenditures to wrong line items in its expenditure reports.

AOUSC had inadequate procedures to ensure that it charged expenditures to the appropriate independent counsel or category. As a result, significant unresolved differences existed among (1) AOUSC automated accounting records, (2) AOUSC expenditure reports, and (3) independent counsel 6-month expenditure reports regarding total expenditures.

AOUSC in many instances provided monthly summary reports of expenditures to the independent counsels, and the independent counsels informed us that they or their staff reviewed the reports. However, AOUSC in several cases did not provide monthly reports, and none of the independent counsels consistently maintained detailed accounting records which would allow them to verify the reports.

Also, AOUSC's computer system contained material errors related to independent counsel expenditures. Further, AOUSC made material errors in manually preparing its expenditure reports from its computerized records and by not following consistent accounting period cut-off procedures. For example, AOUSC showed no personnel compensation expenditures in Independent Counsel Harper's termination report, even though AOUSC's computerized records and our audit showed approximately \$22,000 and approximately \$36,000, respectively, for Mr. Harper's office.

We also identified other accounting and reporting problems. For example, we found that AOUSC accounting records incorrectly included charges to Independent Counsel Adams for approximately \$100,000 in payroll expenditures for judiciary branch employees who performed duties unrelated to any independent counsel. The charges were included in an AOUSC report and in Mr. Adams' subsequent 6-month expenditure report. We will follow up on this issue in our next audit of independent counsels.

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In another example, we found that Justice disbursed approximately \$1.8 million from the permanent, indefinite appropriation on behalf of Independent Counsel Walsh, but that the expenditures were not included in Mr. Walsh's subsequent expenditure reports. The expenditures were primarily related to the cost of operating a secure facility for handling highly classified documents.

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### Inadequate Segregation of Duties

An essential control for ensuring that expenditures are proper is the segregation of duties between the staff who initiate transactions and those who approve them. Inadequate segregation of duties can lead to inordinate opportunities which would allow a person to institute and execute improper transactions without those transactions being detected.

We reviewed the duties of staff for several of the independent counsels and found that duties were not adequately segregated. For example, the administrative officers for the independent counsels both initiated and approved certain payroll transactions. AOUSC processed the transactions but did not regularly review their propriety.

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### Noncompliance With Pay and Travel Requirements

The law does not specifically address the precise status or placement within the government of independent counsels. However, the clear implication of the law's provisions is that independent counsels are executive branch officers and their staff members are executive branch employees. Likewise, the Supreme Court in *Morrison v. Olson* 487 U.S. 654 (1988) treated independent counsels as officers of the executive branch.

Accordingly, except to the extent specifically provided for in the independent counsel law, independent counsels and their staff are governed by the same statutory provisions and regulations applicable to other executive branch officers and employees contained in Title 5 of the United States Code relating to pay, allowances, travel, and transportation.

With respect to pay and allowance matters, the law provides for the compensation of independent counsels at a per diem rate equal to level IV of the Executive Schedule and authorizes independent counsels to appoint employees and fix their compensation at no higher than the maximum rate payable for the grade 18 level of the General Schedule. Other than these provisions, the independent counsel law does not specifically address compensation matters, leaving independent counsels and their employees subject to the compensation laws and regulations that apply generally to

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other executive branch officers and employees. The following sections describe some instances of noncompliance with laws and regulations involving pay and travel issues.

Annual Leave: We found that Independent Counsel McKay was paid approximately \$2,400 for 64 hours of unused annual leave. Because Mr. McKay was a per diem employee, he was not allowed to earn annual leave.

Excess Leave: We found instances in which 30 employees of Independent Counsel Walsh had accrued excess leave without written justifications and approvals. Employees are allowed to accrue and carry forward into the next leave year up to 240 hours of annual leave. If sickness or the exigencies of public business prevent the use of scheduled annual leave, employees are allowed to carry forward more than 240 hours, provided there are written justifications and approvals for carrying forward the excess. As of March 31, 1992, the 30 employees had been allowed to carry forward an estimated 5,300 hours without written justifications and approvals.

Compensatory Time: We found payroll records that showed Independent Counsel McKay and three of his senior level attorneys received approximately \$36,000 in compensatory time off for overtime work performed. The three senior level attorneys who worked for Mr. McKay were paid at or near the grade 18 level of the General Schedule. There is no authority for per diem employees or employees paid above the maximum grade 15 level of the General Schedule to receive compensatory time.

Mr. McKay said that he relied on advice provided by AOUSC that he and his employees were entitled to compensatory time for overtime work. He also said that AOUSC's disbursement of funds to pay for the compensatory time constituted an approval of this practice. However, we were unable to identify any written record of specific guidance from AOUSC that compensatory time was allowable for independent counsels or their senior level attorneys.

Travel Processing: Government travel is ordinarily required to be either authorized or approved before expenses are incurred. Also, travel expenses should not be paid unless there is evidence, such as employee travel vouchers, that the expenses have been incurred.

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We found that 489 out of 522 travel transactions that we examined lacked written travel authorizations or approvals. Also, we found 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. Without written authorizations or approvals, and without comparing bills to records of the expenses incurred, there is no assurance that reported travel expenditures were proper.

Duty Station: Travel reimbursement requirements have posed problems for independent counsels. The independent counsel law provides compensation for independent counsels on a per diem basis. However, the independent counsel law does not specifically authorize travel expense reimbursement. As a result, independent counsels and their staff are subject to travel reimbursement provisions that apply generally to other executive branch officers and employees.

The provision that applies to most government employees, 5 U.S.C. 5702, authorizes reimbursement only for travel away from an employee's official duty station, which is the location where the employee performs most of his or her government duties. Another provision, 5 U.S.C. 5703, which applies only to experts and consultants who are employed intermittently and paid on a per diem or similar basis, authorizes reimbursement for travel between their residence or regular place of business and the location where they perform their government duties. One independent counsel suggested that independent counsels are "experts" and therefore qualify for reimbursement under section 5703. While we do not question the expertise of independent counsels, we do not view them as "experts" within the technical meaning of section 5703 since they are not experts who have been appointed to the federal service under 5 U.S.C. 3109 or comparable authority. Moreover, the Federal Personnel Manual states that it is not appropriate to assign experts to policy-making and senior managerial work.

Four independent counsels—Seymour, Walsh, Harper, and Adams—spent a majority of their official duty time in Washington, D.C. However, they declared their residence or regular place of business outside of Washington, D.C., to be their official duty station and were reimbursed for travel between Washington, D.C., and their residence. This reimbursement was not authorized by section 5702 since Washington, D.C., should have been treated as their official duty station. Nor was it authorized by section 5703 since independent counsels are not experts or consultants. We were

not able to readily determine the amount of such travel from the available records. Also, any reimbursement for transportation between their offices and living quarters while in Washington, D.C., was generally unallowable since we view Washington, D.C., as their official duty station. Independent Counsel Walsh, for example, has used a government-leased vehicle for transportation between his office and living quarters while in Washington, D.C.

We believe that the lack of authority to reimburse independent counsels for travel between their residences and Washington, D.C., where they perform most of their duties represents an oversight in the independent counsel law. Many other laws establishing per diem positions specifically provide for such reimbursement.<sup>2</sup> By compensating independent counsels on a per diem basis, the Congress clearly anticipated that they would serve less than full-time and presumably recognized that they might need to perform their duties away from their residences.

Application of 5 U.S.C. 5702 to independent counsels is particularly incongruous considering the inherent uncertainty over the duration of their work. For example, Mr. Harper served a total of 41 days, of which 28 were spent in Washington, D.C., and the remainder were spent in Atlanta, Georgia. Mr. Walsh, on the other hand, has served for 6 years, spending approximately 57 percent of his official duty time in Washington, D.C., and 27 percent in Oklahoma City, Oklahoma. The remaining 16 percent was spent traveling or on trips to other locations.

The same uncertainties can pose problems for employees of independent counsels. We found one instance in which a senior employee of Mr. Walsh incorrectly treated his home location as his official duty station, instead of Washington, D.C., where he performed most of his duties. As a result, he received reimbursement for travel between his residence and Washington, D.C., which was not authorized by 5 U.S.C. 5702. However, Mr. Walsh told us that, given the inability to predict how long his work would take, there was no practical alternative to this arrangement.

Mr. Walsh added that, while his office generally followed the governmentwide pay and travel requirements, some departures were necessary in order to address such practical difficulties. He considered this appropriate since he does not believe that these requirements apply to independent counsels as a matter of law. He pointed out that the Congress

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<sup>2</sup>The Federal Advisory Committee Act and the National Commission on Acquired Immune Deficiency Syndrome Act are examples.

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granted independent counsels the authority and responsibility to make expenditures that are reasonable in order to conduct their investigations as quickly and as thoroughly as possible. His decisions as to travel and subsistence expenses have been made in good faith as reasonably necessary to meet the exigencies of the work and to hasten its completion. In this regard, he referred to the Senate Governmental Affairs Committee report on its version of the Independent Counsel Reauthorization Act of 1987, which observed:

"[I]t is important to note that, while independent counsels are intended to follow the fiscal practices of other federal agencies, it is also understood that they may have to deviate from these rules to accomplish their missions, which include quickly establishing a new office and proceeding expeditiously on a high-priority criminal case. Their missions may entail unusual expenses or higher costs than other agencies normally incur but which, in the context of the independent counsel's mandate, are nevertheless 'reasonable expenditures.' Independent counsels should not, in the interests of fiscal restraint, sacrifice the quality and thoroughness of effort that a responsible investigation and prosecution may require."

As we previously stated, independent counsels are subject to the basic provisions of Title 5 and its implementing regulations. The Senate Committee's statement recognizes the potential tension between these requirements and an independent counsel's mission. However, we do not view its statement as authority for independent counsels to depart from the requirements. Therefore, if the independent counsel law is extended, the Congress should consider providing specific authority to reimburse the travel expenses of independent counsels away from their residences. The Congress should also consider providing such authority for independent counsel employees not already covered by 5 U.S.C. 5703.

We recognize that our conclusions call into question continued reimbursement to the two active independent counsels for expenses covered by 5 U.S.C. 5703 and continued reimbursement to one of their employees. As noted above, we believe that the lack of authority for such reimbursement to independent counsels, and perhaps also to their full-time employees, results from an oversight in the law. Therefore, we would not object to continuation of these reimbursements in order to allow the Congress an opportunity to address the issue.<sup>3</sup>

Lodging and Meals: Even if independent counsels could claim reimbursement for expenses when performing government work at a

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<sup>3</sup>See, for example, 62 Comp. Gen. 438, 440 (1983), where we took a similar approach with respect to another issue involving unauthorized payments which resulted from uncertain congressional intent.

Washington, D.C., duty station, the amount the government will reimburse is limited. From July 1988 to December 1991, Independent Counsel Walsh was reimbursed for a room at the Watergate Hotel in Washington, D.C., at a cost of \$95 per day, including the days that he did not occupy it. Reimbursement for unoccupied lodging rented on a weekly or monthly basis is allowable only when the total cost for a period does not exceed what would have been allowed during the period if the employee rented lodging on a daily basis only for the days used.

Our computations show that Mr. Walsh received reimbursements in excess of the amounts he should have received, based on the allowable daily lodging rate for the number of days Mr. Walsh used the lodging. AOUSC provided a written determination to Mr. Walsh that reimbursement for his unused lodging was allowable. Mr. Walsh said that he relied on that determination.

Also, Mr. Walsh and one of his senior employees claimed reimbursement for actual subsistence expenses up to 150 percent of the applicable rates for lodging and meals for all of their official travel. Federal Travel Regulations allow reimbursement at the 150 percent rate, but only in circumstances in which it is warranted, such as travel to an area hosting a special function or travel in which unusually high expenses are necessarily incurred.

This authority is to be used on a case-by-case basis. We found no evidence that the reimbursements were authorized on a case-by-case basis with consideration being given to the circumstances of each trip. Nor is it apparent how the circumstances identified in the Federal Travel Regulations or comparable circumstances would provide a basis for the consistent use of the 150-percent rate by Mr. Walsh and his senior employee.

Mr. Walsh informed us that he relied on information provided in writing by AOUSC that use of the 150-percent rate was allowable in all cases, provided that actual expenses were itemized and documented.

Based on records provided by Mr. Walsh, we calculated that the total amount of unallowable reimbursements for lodging and meals for Mr. Walsh was approximately \$78,000 more than the per diem rate or approximately \$44,000 more than the 150-percent rate used by Mr. Walsh. The reimbursement for his senior employee was approximately \$5,000 more than the per diem rate.

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**First Class Travel:** For at least his first 2 years as independent counsel, Mr. Walsh was reimbursed for first class air travel. Reimbursement for first class air travel is allowed, but only when its use is certified and specifically authorized. Examples of the conditions permitting first class air travel are when no other class is available and travel is so urgent it cannot be postponed or when, for security purposes or exceptional circumstances, use of such travel is essential to the performance of an agency's mission. We did not find any such certifications and authorizations by Mr. Walsh.

AOUSC provided Mr. Walsh with written criteria for determining whether reimbursement for first class air travel was allowable. Mr. Walsh said that, based on that criteria, he believed that reimbursement was allowable. However, the criteria is essentially the same as described above.

**Relocation Expense:** We identified improper reimbursements of approximately \$3,700 for relocation expenses for Mr. Walsh's Special Assistant, who was new to the federal government. Relocation expenses of new federal employees are reimbursable if the employee is filling a position for which the Office of Personnel Management has determined there is a manpower shortage. However, there was no such determination for any position similar to Special Assistant.

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## Waivers

Several instances of noncompliance that we found involved overpayments of pay or travel allowances to independent counsels and their employees. Under 5 U.S.C. 5584 and regulations issued by our Office (4 C.F.R. parts 91-92), collection of such overpayments may be waived if it is determined that collection would be against equity and good conscience and not in the best interests of the United States. Generally, the criteria for waiver are met where there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the recipient of the overpayment. In particular, consideration is given to whether the recipient knew or reasonably should have known of the error.

Waiver determinations depend upon the facts of each case. However, in general the overpayments we identified appear to be attributable not to any fault on the part of the recipients but to an oversight or ambiguities in the law or to erroneous advice provided to independent counsels, and are appropriate for waiver consideration.

## Noncompliance With Procurement Requirements

Procurements by independent counsels are subject to the requirements of the Competition in Contracting Act of 1984 (CICA). Regulations implementing CICA are contained in the Federal Acquisition Regulation (FAR). AOUSC, a federal agency in the judicial branch of the government, relies on its own procurement statute, 28 U.S.C. 604(a) (10), and 41 U.S.C. 5, the general procurement statute for agencies like AOUSC not covered by CICA. AOUSC has issued small purchase regulations, and applies the FAR principles to procurements above the small purchase threshold.

Procurements of federal information processing resources by either the AOUSC or the independent counsels are governed by the Brooks Act. Regulations covering federal information processing acquisitions are contained in the Federal Information Resources Management Regulation, which requires that such acquisitions be carried out in accordance with the part of the FAR which establishes requirements for competition.

In any event, the requirement for competition is a fundamental principle of federal acquisitions and is the basic policy for AOUSC procurements. The FAR reflects this basic principle and permits contracts to be awarded using other than full and open competition only under limited circumstances which must be justified in writing. The FAR also requires that proposed contract actions be publicized unless the contracting officer determines that the procurement can be excepted on specified bases, such as urgency or national security.

The independent counsels active as of March 31, 1992, said that they relied on AOUSC to ensure that procurements were administered in compliance with laws and regulations. AOUSC, however, told us that it considered its role to be essentially ministerial, and routinely deferred to independent counsels by awarding contracts to vendors designated by independent counsels without questioning the rationale for selection and without following competitive procurement procedures.

We found that AOUSC procurements on behalf of independent counsels often were not publicized and sole-source procurements often were not justified in writing. For example, AOUSC procured more than \$100,000 of computers with special security features for Independent Counsel Walsh on a sole-source basis without written justification.

Also, AOUSC procedures provide that disbursements for goods and services should not be made unless there is evidence that the goods and services were received. That evidence should consist of at least a signature by an

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authorized individual—usually an independent counsel’s administrative officer—vouching that the goods and services were received.

AOUSC, however, did not always follow this procedure. We found 49 instances totaling approximately \$179,000 in which AOUSC authorized disbursements without required evidence that goods and services had been received. As a result, we could not verify that reported expenditures for the procurement of goods and services were valid.

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## Total Reported Expenditures Did Not Include All Costs Paid From Other Appropriations

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, and the use of other agencies’ office space. Independent Counsel Walsh, for example, incurred an estimated \$5 million in these costs.

We did not identify any requirement for independent counsels to separately account for or report costs paid from other appropriations. However, the nature of these other costs are identified and discussed in the appendixes to this report.

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## Conclusions

Offices of independent counsel and AOUSC had numerous internal control weaknesses which seriously affected the accuracy of reported expenditures from the permanent, indefinite appropriation and permitted noncompliance with laws and regulations. These problems and the absence of some reports precluded us from completing our audit. Also, there are no requirements that independent counsels or other agencies separately track and report expenditures from other appropriations on behalf of independent counsels. As a result, reported expenditures give only a general indication of how much it has actually cost to carry out the independent counsel law.

Also, we found a number of instances of noncompliance with provisions of laws and regulations affecting independent counsel activities. We believe at least some of the instances we identified may be attributable to an oversight or ambiguities in the independent counsel law and a lack of comprehensive guidance on operations and administrative legal requirements affecting independent counsels. If the independent counsel

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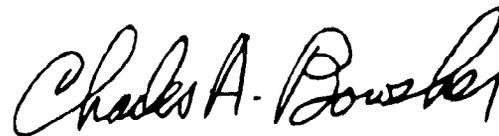
law is extended, the Congress should consider providing specific authority to reimburse the travel expenses of independent counsels away from their residences. The Congress should also consider providing such authority for independent counsel employees not already covered by 5 U.S.C. 5703.

Clearly, neither independent counsels nor AOUSC have taken the necessary steps to ensure that reported expenditures are accurate and that effective controls are in place to ensure compliance with all laws and regulations. Justice, too, has not taken steps in this regard, largely because of concerns that it not interfere with the independence of counsel offices. As a result, there has been a serious breakdown in the accountability over independent counsel administrative operations. If the independent counsel law is extended, we believe the Congress should clearly delineate the administrative responsibilities of independent counsels, Justice, and any other government agencies.

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We will continue to examine and evaluate independent counsels' operations and compliance with administrative legal requirements in our next audit. We will also follow up on the issues identified in this report to determine whether they are appropriately resolved.

We are sending copies of this report to congressional requesters, the Attorney General, the Director of AOUSC, the nine independent counsels included in our audit, and other interested parties. Copies will be made available to others upon request.



Charles A. Bowsher  
Comptroller General  
of the United States

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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  
Chairman

The Honorable Strom Thurmond  
Ranking Minority Member  
Committee on the Judiciary  
United States Senate

The Honorable Jamie L. Whitten  
Chairman

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

The Honorable John Conyers, Jr.  
Chairman

The Honorable Frank Horton  
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**

HUD	Department of Housing and Urban Development
OIG	Office of Inspector General
AOUSC	Administrative Office of the U.S. Courts
CICA	Competition in Contracting Act
FAR	Federal Acquisition Regulation
IRS	Internal Revenue Service
FBI	Federal Bureau of Investigation
OPM	Office of Personnel Management



# Statement of Expenditures for Independent Counsel Silverman

LEON SILVERMAN  
Office of Independent Counsel  
Statement of Expenditures  
For the Period June 11, 1985 (inception)  
through November 30, 1988

<u>Expenditures</u>	<u>Amounts reported (Unaudited)</u>
Personnel compensation and benefits	--
Travel expenses	\$3,400
Rent, communications and equipment	1,700
Contractual services	1,900
Administrative services	<u>200</u>
Total Expenditures	<u>\$7,200</u>

The accompanying notes are an integral part of this statement.

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

Leon Silverman

Office of Independent Counsel

Footnotes

Note 1 - Accounting Policies

The amounts reported on the accompanying statement of expenditures of the Office of Independent Counsel (OIC) are for the period from June 11, 1985 (inception), to November 30, 1988 (termination). The statement was issued to the division of the court in compliance with the Ethics in Government Act as amended on December 15, 1987. The amounts presented have been rounded and grouped by major expenditure for presentation purposes by GAO.

The statement of expenditures was prepared on the cash basis of accounting. Consequently, expenditures are recorded when funds are disbursed or, for non-cash transfers, when charged by the Administrative Office of the U.S. Courts or the Department of Justice.

Note 2 - Other Operating Costs

The statement of expenditures includes only the expenditures of the OIC that were made from the permanent, indefinite appropriation for independent counsels. Certain personnel costs relating to a Federal Bureau of Investigation (FBI) employee who was assigned to work with the OIC were financed from funds appropriated to the FBI. The FBI was not reimbursed and did not track the costs incurred. There is no available estimate of the cost to the FBI.

Note 3 - Personnel Compensation and Benefits

The independent counsel, legal staff, and paraprofessionals did not submit vouchers for payment for services rendered.

# Statement of Expenditures for Independent Counsel Morrison

## ALEXIA MORRISON

## Office of Independent Counsel

## Statement of Expenditures

For the Period May 29, 1986 (inception)  
through March 31, 1989

<u>Expenditures</u>	<u>Amounts reported (Unaudited)</u>
Personnel compensation and benefits	\$ 940,000
Travel expenses	59,000
Rent, communications and equipment	408,000
Contractual services	32,000
Supplies and material	20,000
Acquisition of capital assets	30,000
Administrative services	<u>37,000</u>
Total Expenditures	<u>\$1,526,000</u>

The accompanying notes are an integral part of this statement.

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

Alexia Morrison

Office of Independent Counsel

Footnotes

Note 1 - Accounting Policies

The amounts reported on the accompanying statement of expenditures are for the period from May 29, 1986 (inception), to March 31, 1989 (termination). The Office of Independent Counsel (OIC) did not issue some of the statements of expenditures at 6-month intervals with the division of the court as required by the Ethics in Government Act, as amended on December 15, 1987. Consequently, the amounts reported on the accompanying statement of expenditures are a combination of the total expenditures of the OIC as reported to the division of the court and the sum of the monthly expenditures reported to the OIC by the Administrative Office of the U.S. Courts (AOUSC). The amounts presented have been rounded and grouped by major expenditure for presentation purposes by GAO.

The statement of expenditures was prepared principally on the cash basis of accounting. Consequently, except for payroll and employee benefits, expenditures are recorded when funds are disbursed or, for non-cash transfers, when charged by AOUSC or the Department of Justice. Payroll and related employee benefits are recorded at the end of the pay period when earned.

Note 2 - Other Operating Costs

The statement of expenditures includes only expenditures funded from the permanent, indefinite appropriation for independent counsels and the account which previously funded the independent counsels, the general legal activities appropriation. Certain costs relating to employees assigned to the OIC by the Federal Bureau of Investigation (FBI) were financed through funds appropriated to the FBI. The cost of office space provided to the OIC by her law firm was absorbed by the independent counsel's law firm. The agencies and the independent counsel's law firm were not reimbursed and did not track the cost of the assistance provided to the counsel. Based on information obtained from the FBI, the estimated cost of its assistance amounted to \$615,000.

Note 3 - 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 OIC with qualifying appointments were not provided retirement coverage. AOUSC determined that these employees should be retroactively provided retirement plan coverage.

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

AOUSC is reviewing individual employee personnel files to determine specific coverage requirements. The ultimate cost of providing retroactive retirement coverage is dependent upon completion of the review of individual personnel files and the concurrence of OPM.

# Statement of Expenditures for Independent Counsel Seymour

WHITNEY NORTH SEYMOUR, JR.

Office of Independent Counsel

Statement of Expenditures

For the Period May 29, 1986 (inception)  
through September 30, 1990

<u>Expenditures</u>	<u>Amounts reported (Unaudited)</u>
Personnel compensation and benefits	\$1,006,000
Travel expenses	174,000
Rent, communications and equipment	70,000
Contractual services	93,000
Supplies and material	18,000
Acquisition of capital assets	59,000
Administrative services	<u>40,000</u>
Total Expenditures	<u>\$1,460,000</u>

The accompanying notes are an integral part of this statement.

**Appendix III  
Statement of Expenditures for Independent  
Counsel Seymour**

Whitney North Seymour, Jr.

Office of Independent Counsel

Footnotes

Note 1 - Accounting Policies

The amounts reported on the accompanying statement of expenditures of the Office of Independent Counsel (OIC) are for the period from May 29, 1986 (inception), to September 30, 1990. The statement was issued to the division of the court in compliance with the Ethics in Government Act as amended on December 15, 1987. The amounts presented have been rounded and grouped by major expenditure for presentation purposes by GAO.

The statement of expenditures was prepared principally on the cash basis of accounting. Consequently, except for payroll and employee benefits, expenditures are recorded when funds are disbursed or, for non-cash transfers, when charged by the Administrative Office of the U.S. Courts or the Department of Justice. Payroll and related employee benefits are recorded at the end of the pay period when earned.

Note 2 - Other Operating Costs

The statement of expenditures includes only expenditures funded from the permanent, indefinite appropriation for independent counsels and the account which previously funded the independent counsels, the general legal activities appropriation. Certain personnel costs of employees assigned to work with the OIC by the Federal Bureau of Investigation (FBI) were financed through funds appropriated to the FBI and, accordingly, are not included in the statement of expenditures. The FBI was not reimbursed and did not track the cost of the assistance provided to the OIC, and therefore the actual cost of the assistance could not be readily determined. Based on information provided by FBI officials, the estimated cost of their assistance amounted to \$92,000.

Note 3 - 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 OIC with qualifying appointments were not provided retirement coverage. AOUSC determined that these employees should be retroactively provided retirement plan coverage.

**Appendix III  
Statement of Expenditures for Independent  
Counsel Seymour**

AOUSC is reviewing individual employee personnel files to determine specific coverage requirements. The ultimate cost of providing retroactive retirement coverage is dependent upon completion of the review of individual personnel files and the concurrence of OPM.

# Statement of Expenditures for Independent Counsel Walsh

**LAWRENCE E. WALSH**

Office of Independent Counsel

**Statement of Expenditures**For the Period December 19, 1986  
(inception) through March 31, 1992

<u>Expenditures</u>	<u>Amounts reported (Unaudited)</u>
Personnel compensation and benefits	\$16,512,000
Travel expenses	1,010,000
Rent, communications and equipment	8,257,000
Contractual services	2,135,000
Supplies and material	562,000
Acquisition of capital assets	1,167,000
Administrative services	<u>660,000</u>
Total Expenditures	<u>\$30,303,000</u>

The accompanying notes are an integral part of this statement.

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

Lawrence E. Walsh

Office of Independent Counsel

Footnotes

Note 1 - Accounting Policies

The amounts reported on the accompanying statement of expenditures are for the period from December 19, 1986 (inception), to March 31, 1992 (date of most current filing requirement). The Office of Independent Counsel (OIC) did not issue some of the statements of expenditures at 6-month intervals with the division of the court as required by the Ethics in Government Act, as amended on December 15, 1987. Consequently, the amounts reported on the accompanying statement of expenditures are a combination of the total expenditures of the OIC as reported to the division of the court and the sum of the monthly expenditures reported to the OIC by the Administrative Office of the U.S. Courts (AOUSC). The amounts presented have been rounded and grouped by major expenditure for presentation purposes by GAO.

The statement of expenditures was prepared principally on the modified-cash basis of accounting. Consequently, except for payroll and employee benefits, expenditures are recorded when the funds are disbursed or, for non-cash transfers, when charged by AOUSC or the Department of Justice, and certain expenditures are accrued. Payroll and related employee benefits are recorded at the end of the pay period when earned.

Note 2 - Other Operating Costs

The statement of expenditures includes only expenditures made from the permanent, indefinite appropriation for independent counsels and the account which previously funded the independent counsels, the general legal activities appropriation. Certain costs relating to employees assigned to work with the OIC by the Federal Bureau of Investigation (FBI), Internal Revenue Service, and U.S. Customs Service; office space provided by the FBI for use by the OIC; and other assistance provided to the OIC by the Department of Justice are financed from funds appropriated to these agencies and, accordingly, are not included in the statement of expenditures. These agencies are not reimbursed and do not track the cost of the assistance provided to the OIC, and therefore the actual cost of the assistance cannot be readily determined. The schedule below shows the estimated cost of the assistance these agencies provided to the OIC based on information provided by officials of the respective agencies.

Appendix IV  
Statement of Expenditures for Independent  
Counsel Walsh

OTHER OPERATING COSTS  
As Of March 31, 1992

Department of Justice:

Justice Management Division	\$ 439,000
U.S. Attorneys	4,000
Criminal Division	631,000
FBI (Personnel)	2,586,000
(Office Space)	<u>316,000</u>

Total - Department of Justice 3,976,000

Internal Revenue Service 984,000

U.S. Customs Service 49,000

Total Other Operating Costs \$5,009,000

Note 3 - 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 OIC with qualifying appointments were not provided retirement coverage. AOUSC determined that these employees should be retroactively provided retirement plan coverage.

AOUSC is reviewing individual employee personnel files to determine specific coverage requirements. The ultimate cost of providing retroactive retirement coverage is dependent upon completion of the review of individual personnel files and the concurrence of OPM.

# Statement of Expenditures for Independent Counsel McKay

JAMES C. MCKAY

Office of Independent Counsel

Statement of Expenditures

For the Period February 2, 1987 (inception)  
through January 31, 1990

<u>Expenditures</u>	<u>Amounts reported (Unaudited)</u>
Personnel compensation and benefits	\$1,481,000
Travel expenses	106,000
Rent, communications and equipment	482,000
Contractual services	178,000
Supplies and material	50,000
Acquisition of capital assets	128,000
Administrative services	<u>66,000</u>
Total Expenditures	<u>\$2,491,000</u>

The accompanying notes are an integral part of this statement.

**Appendix V**  
**Statement of Expenditures for Independent**  
**Counsel McKay**

James C. McKay

Office of Independent Counsel

Footnotes

Note 1 - Accounting Policies

The amounts reported on the accompanying statement of expenditures for the period from February 2, 1987 (inception), to January 31, 1990. The Office of Independent Counsel (OIC) did not issue some of the statements of expenditures at 6-month intervals with the division of the court as required by the Ethics in Government Act, as amended on December 15, 1987. Consequently, the amounts reported on the accompanying statement of expenditures are a combination of the total expenditures of the Office of Independent Counsel (OIC) as reported to the division of the court and the sum of the monthly expenditures reported to the OIC by the Administrative Office of the U.S. Courts (AOUSC). The amounts presented have been rounded and grouped by major expenditure for presentation purposes by GAO.

The statement of expenditures was prepared principally on the cash basis of accounting. Consequently, except for payroll and employee benefits, expenditures are recorded when funds are disbursed or, for non-cash transfers, when charged by AOUSC or the Department of Justice. Payroll and related employee benefits are recorded at the end of the pay period when earned.

Note 2 - Other Operating Costs

The statement of expenditures includes only expenditures funded from the permanent, indefinite appropriation for independent counsels and the account which previously funded the independent counsels, the general legal activities appropriation. Certain costs of employees assigned to work with the OIC by the Federal Bureau of Investigation (FBI) and Internal Revenue Service (IRS) and seven rental cars used by the FBI staff assigned to the counsel were financed through funds appropriated to these agencies and, accordingly, are not included in the statement of expenditures. These agencies were not reimbursed and did not track the cost of the assistance provided to the OIC, and therefore the actual cost of their assistance could not be readily determined. Based on information obtained from FBI and IRS officials, the estimated cost of employees assigned to work for the counsel amounted to \$180,000 and \$125,000, respectively. FBI officials were unable to provide an estimate of the cost of the rental cars.

Note 3 - 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

**Appendix V**  
**Statement of Expenditures for Independent**  
**Counsel McKay**

system. Certain employees of the OIC with qualifying appointments were not provided retirement coverage. AOUSC determined that these employees should be retroactively provided retirement plan coverage.

AOUSC is reviewing individual employee personnel files to determine specific coverage requirements. The ultimate cost of providing retroactive retirement coverage is dependent upon completion of the review of individual personnel files and the concurrence of OPM.

# Statement of Expenditures for Independent Counsel Harper

JAMES R. HARPER

Office of Independent Counsel

Statement of Expenditures

For the Period August 17, 1987 (inception)  
through December 31, 1987

<u>Expenditures</u>	<u>Amounts reported (Unaudited)</u>
Personnel compensation and benefits	--
Travel expenses	\$ 7,900
Rent, communications and equipment	1,600
Contractual services	9,000
Supplies and material	100
Administrative services	<u>800</u>
Total Expenditures	<u>\$19,400</u>

The accompanying notes are an integral part of this statement.

**Appendix VI  
Statement of Expenditures for Independent  
Counsel Harper**

**James R. Harper**

Office of Independent Counsel

**Footnotes**

**Note 1 - Accounting Policies**

The amounts reported in the accompanying statement of expenditures for the period from August 17, 1987 (inception), to December 31, 1987 (termination) were reported to the Office of Independent Counsel (OIC) by the Administrative Office of the U.S. Courts (AOUSC). The OIC did not issue any 6-month or termination expenditure statements to the division of the court as required by the Ethics in Government Act as amended on December 15, 1987. The amounts presented have been rounded and grouped by major expenditure for presentation purposes by GAO.

The statement of expenditures was prepared principally on the cash basis of accounting. Consequently, expenditures are recorded when funds are disbursed or, for non-cash transfers, when charged by AOUSC or the Department of Justice.

**Note 2 - Other Operating Costs**

The statement of expenditures includes only expenditures funded from the permanent, indefinite appropriation for independent counsels and the account which previously funded the independent counsels, the general legal activities appropriation. Certain costs of employees assigned to work with the OIC by the Federal Bureau of Investigation (FBI) and Internal Revenue Service (IRS) were financed through funds appropriated to these agencies and, accordingly, are not included in the statement of expenditures. These agencies were not reimbursed and did not track the cost of the assistance provided to the counsel, and therefore the actual cost of their assistance could not be readily determined. Based on information provided by FBI officials, the estimated cost of their assistance amounted to \$30,000. IRS officials were unable to provide an estimate of the cost of their assistance.

**Note 3 - Personnel Compensation and Benefits**

The AOUSC pay history tape shows charges of about \$22,000 in this category of expenditures. Our audit showed that personnel compensation and benefits for the OIC should be approximately \$36,000. However, no charges were ever reported to the OIC on the monthly expenditure reports issued by AOUSC.

# Statement of Expenditures for Independent Counsel Sealed-1989

SEALED-1989	
Office of Independent Counsel	
Statement of Expenditures	
For the Period May 31, 1989 (inception) through Termination	
<u>Expenditures</u>	<u>Amounts reported (Unaudited)</u>
Personnel compensation and benefits	\$10,000
Travel expenses	200
Rent, communications and equipment	1,700
Contractual services	2,800
Administrative services	<u>400</u>
Total Expenditures	<u>\$15,100</u>

The accompanying notes are an integral part of this statement.

**Appendix VII**  
**Statement of Expenditures for Independent**  
**Counsel Sealed-1989**

**Sealed-1989**

**Office of Independent Counsel**

**Footnotes**

Note 1 - Accounting Policies

The amounts reported on the accompanying statement of expenditures of the Office of Independent Counsel (OIC) are for the period from May 31, 1989 (inception), to termination. The statement was issued to the division of the court in compliance with the Ethics in Government Act as amended on December 15, 1987. The amounts presented have been rounded and grouped by major expenditure for presentation purposes by GAO.

The statement of expenditures was prepared principally on the cash basis of accounting. Consequently, except for payroll and employee benefits, expenditures are recorded when funds are disbursed or, for non-cash transfers, when charged by the Administrative Office of the U.S. Courts or the Department of Justice. Payroll and related employee benefits are recorded at the end of the pay period when earned.

Note 2 - Other Operating Costs

The statement of expenditures includes only the expenditures of the OIC that were taken from the permanent, indefinite appropriation for independent counsels. Certain costs of conducting the investigation were financed through funds appropriated to the Federal Bureau of Investigation and the Department of Justice and, accordingly, are not included in the statement of expenditures. These agencies were not reimbursed and did not track the cost of the assistance provided to the OIC and therefore, the actual cost of the assistance could not be readily determined.

# Statement of Expenditures for Independent Counsel Adams

ARLIN M. ADAMS

Office of Independent Counsel

Statement of Expenditures

For the Period March 1, 1990 (inception)  
through December 31, 1991

<u>Expenditures</u>	<u>Amounts reported (Unaudited)</u>
Personnel compensation and benefits	\$2,354,000
Travel expenses	206,000
Rent, communications and equipment	339,000
Contractual services	237,000
Supplies and material	62,000
Acquisition of capital assets	173,000
Administrative services	<u>76,000</u>
Total Expenditures	<u>\$3,447,000</u>

The accompanying notes are an integral part of this statement.

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

**Arlin M. Adams**

**Office of Independent Counsel**

**Footnotes**

**Note 1 - Accounting Policies**

The amounts reported on the accompanying statement of expenditures of the Office of Independent Counsel (OIC) are for the period from March 1, 1990 (inception), to December 31, 1991 (date of most current filing requirement). The statement was issued to the division of the court in compliance with the Ethics in Government Act as amended on December 15, 1987. The amounts presented have been rounded and grouped by major expenditure for presentation purposes by GAO.

The statement of expenditures was prepared principally on the cash basis of accounting. Consequently, except for payroll and employee benefits, expenditures are recorded when funds are disbursed or, for non-cash transfers, when charged by the Administrative Office of the U.S. Courts or the Department of Justice. Payroll and related employee benefits are recorded at the end of the pay period when earned.

**Note 2 - Other Operating Costs**

The statement of expenditures includes only expenditures funded from the permanent, indefinite appropriation for independent counsels. Certain personnel 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 Housing and Urban Development Office (HUD IG) were financed through funds appropriated to these agencies and, accordingly, are not included in the statement of expenditures. These agencies are not reimbursed and do not track the cost of the assistance provided to the OIC, and therefore the actual cost of their assistance cannot be readily determined. Based on information provided by the agencies, the estimated cost of the assistance provided to the OIC by the FBI, IRS, and HUD IG was \$1,289,000, \$82,000, and \$569,000, respectively.

**Note 3 - 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 OIC with qualifying appointments were not provided retirement coverage. AOUSC determined that these employees should be retroactively provided retirement plan coverage.

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

AOUSC is reviewing individual employee personnel files to determine specific coverage requirements. The ultimate cost of providing retroactive retirement coverage is dependent upon completion of the review of individual personnel files and the concurrence of OPM.

# Statement of Expenditures for Independent Counsel Sealed-1991

SEALED-1991

Office of Independent Counsel

Statement of Expenditures

For the Period April 19, 1991 (inception)  
through March 31, 1992

<u>Expenditures</u>	<u>Amounts reported (Unaudited)</u>
Personnel compensation and benefits	\$21,000
Travel expenses	200
Rent, communications and equipment	34,500
Contractual services	3,400
Acquisition of capital assets	5,300
Administrative services	<u>1,400</u>
Total Expenditures	<u>\$65,800</u>

The accompanying notes are an integral part of this statement.

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

**Sealed-1991**

**Office of Independent Counsel**

**Footnotes**

**Note 1 - Accounting Policies**

The amounts reported on the accompanying statement of expenditures are for the period from April 19, 1991 (inception), to March 31, 1992 (date of most current filing requirement). The Office of Independent Counsel (OIC) did not issue some of the statements of expenditures at 6-month intervals with the division of the court as required by the Ethics in Government Act, as amended on December 15, 1987. Consequently, the amounts reported on the accompanying statement of expenditures are a combination of the total expenditures of the OIC as reported to the division of the court and the sum of the monthly expenditures reported to the OIC by the Administrative Office of the U.S. Courts (AOUSC). The amounts presented have been rounded and grouped by major expenditure for presentation purposes by GAO.

The statement of expenditures was prepared principally on the cash basis of accounting. Consequently, except for payroll and employee benefits, expenditures are recorded when funds are disbursed or, for non-cash transfers, when charged by AOUSC or the Department of Justice. Payroll and related employee benefits are recorded at the end of the pay period when earned.

**Note 2 - Other Operating Costs**

The statement of expenditures includes only the expenditures funded from the permanent, indefinite appropriation for independent counsels. Certain costs of conducting the investigation were financed through funds appropriated to the Federal Bureau of Investigation, Department of Justice, and Inspector General of the Department of Education and, accordingly, are not included in the statement of expenditures. These agencies were not reimbursed and did not track the cost of the assistance provided to the counsel and therefore, the actual cost of the assistance could not be readily determined.

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### **Ordering Information**

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