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Before the Subcommittee on Crime
Committee on the Judiciary
House of Representatives

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FINANCIAL AUDIT

Expenditures by
Independent Counsels

Statement of David L. Clark, Director
Audit Oversight and Liaison
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Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss our financial audits of independent counsel expenditures. Specifically, I will discuss (1) independent counsels' financial reporting and auditing requirements, (2) expenditures for independent counsel operations for the 10-year period ended March 1995, and (3) independent counsels' compliance with financial laws and regulations.

Reporting and Auditing Requirements

Independent counsels are required by law to prepare statements of their expenditures from a permanent, indefinite appropriation. GAO is required by law to audit those reports. The reports cover the 6-month periods ended March 31 and September 30. Independent counsels are required to prepare their reports within 3 months after the end of the 6-month period, and we are required to issue our audit reports within 3 months after that. Our last audit report was for the 6-month period ended March 1995, and was issued in September 1995.¹ We are currently auditing independent counsel reports prepared in December 1995 for the 6-month period ended September 1995, and plan to issue our audit report by the end of March 1996.

Our audit objectives are to determine whether independent counsels' expenditure reports are reliable. We also review the internal control structure over independent counsel expenditures and test for compliance with selected provisions of laws and regulations. We do not evaluate the efficiency or effectiveness of independent counsel operations.

In addition to independent counsels' offices, we also perform audit work at the Department of Justice and the Administrative Office of the United States Courts (AOUSC). The law directs Justice to pay all costs relating to the establishment and operation of independent counsel offices. A permanent, indefinite appropriation has been established by law to pay all necessary independent counsel expenses.

The Independent Counsel Reauthorization Act of 1994 directed AOUSC to provide administrative support and guidance to independent counsels. Prior to the act, AOUSC provided services to independent counsels pursuant to formal agreement with Justice. Justice periodically disburses lump-sum payments from the permanent, indefinite appropriation to

¹Financial Audit: Expenditures by Six Independent Counsels for the Six Months Ended March 31, 1995 (GAO/AIMD-95-233, September 29, 1995).

AOUSC for independent counsel expenditures. Independent counsels submit financial information to AOUSC, which expends funds on independent counsels' behalf and records the expenditures in its accounting systems. AOUSC also prepares monthly summarized expenditure reports and submits them to independent counsels. Independent counsels have generally fulfilled their financial reporting requirements by using the summarized expenditure reports prepared by AOUSC.

Lastly, we obtain, but do not audit, information on the costs of independent counsel operations that are not paid from the permanent, indefinite appropriation. These costs relate primarily to employees assigned to work with independent counsels from other federal agencies, such as the Federal Bureau of Investigation.

Independent Counsel Expenditures

Enclosed is a schedule of independent counsel expenditures for the 10-year period ended March 1995. The schedule was compiled from reports we have issued on expenditures by the independent counsels who have been active since establishment of the permanent, indefinite appropriation in 1987.² We are unable to verify most of the totals on the schedule because of the poor condition of independent counsel records prior to 1992. Also, the totals for some of the independent counsels include unaudited information.

The schedule shows that expenditures for independent counsel operations totaled approximately \$95 million for the 10-year period ended March 1995. Personnel compensation and benefits, including compensation and benefits for employees assigned to work with independent counsels from other federal agencies, such as the Federal Bureau of Investigation, accounted for most of the \$95 million.

In our 1992 audit of independent counsels, we reported that poor financial records and serious internal control weaknesses resulted in inaccurate financial reports.³ These weaknesses included inadequate procedures to ensure that expenditures were recorded properly and inadequate segregation of duties. These weaknesses have been largely resolved. For

²Financial audits of expenditures by independent counsels: GAO/AFMD-93-1, October 9, 1992; GAO/AFMD-93-60, April 21, 1993; GAO/AIMD-94-76, April 15, 1994; GAO/AIMD-95-85, March 31, 1995; GAO/AIMD-95-112, March 31, 1995; GAO/AIMD-95-113, March 31, 1995; and GAO/AIMD-95-233, September 29, 1995.

³Financial Audit: Expenditures by Nine Independent Counsels (GAO/AFMD-93-1, October 9, 1992).

example, some independent counsels have hired a financial officer, established more effective accounting systems, reconciled information in their accounting systems with AOUSC reports, and better segregated accounting duties. AOUSC has improved accounting systems related to independent counsel expenditures and taken other administrative steps such as establishing centralized oversight of independent counsel transactions.

In our last audit report, we noted one remaining weakness in the processing and summarizing of independent counsel expenditures, but pointed out that independent counsels and AOUSC have taken steps to resolve the weakness. The weakness resulted from certain independent counsels submitting incorrect information to AOUSC, and from AOUSC incorrectly recording information submitted by independent counsels. To resolve this weakness, certain independent counsels have begun utilizing the services of a financial consultant to assist them in accounting, including determining that transactions have been recorded properly and reconciling independent counsel financial records with AOUSC records. AOUSC has hired a senior staff member with accounting and financial reporting expertise to review AOUSC records before they are provided to independent counsels.

Compliance With Laws and Regulations

In our 1992 audit of independent counsels, we found that some expenditures were inconsistent with laws and regulations relating to compensation, travel, and procurement. For example, we found that 489 out of 522 travel transactions we examined lacked written authorizations or approvals, and that one independent counsel received \$78,000 in unallowable reimbursements for meals and lodging. Some of the instances we identified may have been 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 independent counsels relying on erroneous advice from AOUSC.

Independent counsels have taken steps to better ensure compliance with laws and regulations through a number of steps including the development of handbooks and other written guidance. Moreover, the Congress addressed many of the problems we found when it enacted the Independent Counsel Reauthorization Act of 1994. The act requires independent counsels to generally comply with the established policies of the Department of Justice regarding expenditure of funds and by

establishing additional restrictions on compensation and travel. In our last four audits, our tests for compliance with selected provisions of laws and regulations have disclosed no reportable instances of noncompliance by independent counsels.

Mr. Chairman, this concludes my statement. I would be pleased to respond to questions.

Attachment

**INDEPENDENT COUNSELS
SCHEDULE OF EXPENDITURES
FOR THE PERIOD 6/11/85 - 3/31/95**

Counsel	Personnel		Travel	Rent, Communications, & Utilities		Contractual Services	Supplies & Materials		Acquisition Of Capital Assets		Administrative Services	Other Operating Costs (Unaudited)		Total Costs
	Compensation & Benefits													
Adams	9,815,000		839,000	2,322,000	4,561,000	132,000	316,000	592,000	4,436,000	23,013,000				
diGenova	1,342,000		60,000	380,000	65,000	9,000	70,000	89,000	326,000	2,341,000				
Fiske	1,059,000		369,000	203,000	143,000	46,000	543,000	0	3,593,000	5,956,000				
Harper	0		8,000	2,000	9,000	0	0	1,000	30,000	50,000				
McKay	1,481,000		106,000	482,000	178,000	50,000	128,000	66,000	305,000	2,796,000				
Morrison	940,000		59,000	408,000	32,000	20,000	30,000	37,000	615,000	2,141,000				
Seymour	1,006,000		174,000	70,000	93,000	18,000	59,000	40,000	92,000	1,552,000				
Silverman	0		3,000	2,000	2,000	0	0	0	7,000	0				
Smalitz	499,000		133,000	32,000	38,000	31,000	292,000	45,000	376,000	1,446,000				
Starr	770,000		281,000	272,000	156,000	70,000	172,000	61,000	6,935,000	8,717,000				
Walsh	22,809,000		1,271,000	10,264,000	3,418,000	634,000	1,253,000	1,011,000	6,731,000	47,391,000				
Sealed 1989	10,000		0	2,000	3,000	0	0	0	0	15,000				
Sealed 1991	37,000		0	39,000	9,000	0	5,000	3,000	93,000	0				
TOTAL	39,766,000		3,303,000	14,478,000	8,707,000	1,010,000	2,868,000	1,945,000	23,439,000	95,518,000				

This schedule was compiled from reports we have issued on expenditures by independent counsels who have been active since establishment of the permanent indefinite appropriation in 1987. We are unable to verify most of the totals on the schedule because of the poor condition of independent counsel records prior to 1992. Also, the totals for some of the independent counsels include unaudited information.

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