

MISCELLANY

Paul Adams, the Inspector General (I.G.) of Department of Housing and Urban Development (HUD) released an internal report prepared by John Greer, Paul Neri and Alvin Cain. This report dated April 27, 1989, alleges fraud, mismanagement, favoritism and the misuse of funds by political appointees of then, President Ronald Reagan, who had served at HUD during the 1980's.

The release of this report leads to congressional hearings on the allegations mentioned by Paul Adams. These Hearings are chaired by Congressman Tom Lantos and are referred to as The Lantos Hearings.

The Lantos hearings lead to a formal request by Congress to the Attorney General, Richard Thornberg. The request is for the appointment of an Independent Counsel. Thornberg asks a panel of three judges, led by Judge George MacKinnon to select an Independent Counsel (I.C.) and to establish the I.C.'s mandate. MacKinnon selects Arlin Adams and outlines the parameters for investigation.

Arlin Adams is named the Independent Counsel by the Attorney General on March 2, 1990. Terri Duggan, an administrator for 5 or 6 previous Independent Counsels is suggested to Adams (presumably) by MacKinnon as a candidate to manage his office.

Adams and his staff shares office space with Lawrence Walsh's office for the first few months. Adam's also uses Walsh's grand jury for witness testimony until it is mutually decided that Adams should empanel his own grand jury. Adam's grand jury is empaneled on December 6, 1990. Previous witnesses testimony which was provided to Walsh's grand jury is read to Adam's new grand jury.

I am hired as a document manager and I begin work on 11/17/91. I am told by Terri Duggan that Adam's office is charged with the investigation of fraud, mismanagement, favoritism, abuse of power and mis-use of tax-payer dollars by HUD. Duggan tells me money which was earmarked for the poor were instead siphoned off by influential developers, corrupt politicians and large contributors to the RNC. I am told by Mary Ellen Fleck that I will find this office to be made of people who take their work but not themselves, seriously. I am told in no uncertain terms that the people in Adam's office are the "good guys" and that although prosecuting white collar criminals is not "sexy", it must be done to insure the integrity of our democracy -- or similar words to this effect.

I am told that public service is a privilege. I am told that the group of people working in Adam's office are not making any money, but are doing it because they believe public officials should be held to a higher standard. The repeated message in our

office is that people who violate the law should be held accountable.

All of this talk was very heady. I began work immediately. I ask all potential user's of the file system what their job duties were and how they would potentially reference information. This research is done for the purpose of customizing a records management system for the OIC that will best meet the needs of the user.

In the course of this research I learn some interesting things about the paper and electronic media in the OIC.

- 1) Office has no uniform system for managing their records.
- 2) Office has little or no documentation available to explain rational behind decisions to: purchase certain software or select certain vendors or enter specific equipment agreement.

When I ask why, I am told by Fleck that no one remembers. These decisions were made on an "ad hoc" basis. Fleck tells me that the offices mandate was constantly changing and that no one realized the office's scope was going to grow so quickly. I am told that no one in the office knew that this investigation was going to be so paper intensive.

Duggan advises me of her two rules to live by, first it is never a good practice to write too much down on paper and second, this office is not an institution, but a temporary office and that if we had written procedures and policies, it would be unfair to future independent counsels because they might not be able to use their own discretion, to do as they see fit, but instead might be forced to follow our offices policies and procedures.

**INFORMATION RELATING TO THE
INDEPENDENT COUNSEL AND THE HUD INVESTIGATION**

Arlin Adams, physically, is only in the office for 4-5 hours per week. I found Adams to be invisible for much of this time and unapproachable. On a normal week, Adams would arrive by train to 444 North Capitol Street at 10:00 a.m., the office would have a staff meeting on those days and Adams would leave after lunch at 3:00 p.m.

Terri Duggan, the administrator, defines the Peter Principle. (The Peter Principle is the principle in government that you are promoted to your level of incompetence). Duggan told me she doesn't need to work, but does out of a sense of duty. She told me she has only worked in government, and that this work has been exclusively with the independent counsel. Because I am new in the office and because I followed instructions, Duggan often would come to me and "confess" her philosophy on life and work.

I believe Duggan also did this because many support staff (LRA's/secretaries) did not like Duggan and because most attorneys and FBI agents ignored her.

Duggan told me about her first position with the government. She said that managing the first few independent counsel office's had been easier. Duggan's first management job with the OIC had consisted of stocking supplies for the office. She told me she would buy supplies once a week. She would take care making coffee and opening (and posting) the mail. She would also clean the kitchen and answer the phones. She told me that now things had changed so much. She now had to worry about per diem and comp time rules. She told me that each new independent counsel had gotten bigger and bigger. She said that she went from managing an office of 4-5 people to being the administrator of an office fifteen times that size with a yearly budget in the millions. Duggan explained to me that she was responsible for keeping the cost of this investigation down and that she did this by asking people to do housecleaning duties, and to reuse file folders, share computers and count paper clips because that is the only way she knew how to save money. [REDACTED]

[REDACTED]

Mary Ellen Fleck, senior legal research assistant, was a friend of Terri Duggan. Duggan hired Fleck to manage the document

collection. The problem was that Fleck had no experience for this task and as a direct result, poor decisions were made.

Hiring person and then assigning them to responsibilities for which they lacked experience or competence seemed to be a recurring practice at the Independent Counsel Office. This is certainly not criminal, but one could argue that the intent of the Independent Counsel statute was not to afford Arlin Adams, Bruce Swartz and Terri Duggan with a tax payers money to hire past friends and flunkies without consideration of the investigative or management needs of the office. I would argue that our offices wasted money not because the OIC's must "reinvent the wheel", but because we hired inept personnel.

DECISIONS WHICH COULD BE QUESTIONED

- Failure to paginate or bates stamp primary collection
- Failure to duplicate primary collection before handling
- Failure to identify subpoena submissions with a unique identifier
- Purchase of (first) too little office space (then later) too much office space.
- Purchase/lease of too few computers, but too much computer capacity.
- Purchase of software which was later not used.
- Hiring friends as consultants

- Hiring friends as employees
- Giving contracts to friends and former employers.
- Making decisions without first getting a written proposal
- The idea of K.I.S.S. was never practiced.

The Office of the Independent Counsel talked a great deal about good government. In staff meetings, Adams would exclaim to his staff that he thought Dean was stupid and her counsel was stupid and that Villalpando was stupid and that Sam Pierce was a Dolt and that Demery was stupid and that he believed the reason so much fraud took place at HUD was because too many positions were filled by people who got their jobs by who they knew and not what they knew. Adams did not think you could achieve good government with political appointees who were non-qualified for public service.

Unfortunately, Adams was not in his own office long enough to see the fruits of hiring friends and former flunkies of his, Swartz and Duggan. Several Associate Independent Counsels (AICs), some FBI agents, and a half dozen legal research assistants (LRAs) worked less than the scheduled 8 hour day. Either by arriving late or taking extended lunches or by leaving early. Early on I was told by a couple LRAs that no one in the office followed the 30 minute lunch period rule and that I was being stupid for still following it.

There was one LRA, [redacted] who sometimes left mid-day for a few hours to teach an aerobics class at a local health club. Several other LRAs and AICs would also take extended lunch leave each day to work out in the gym at the A.O.U.S.C.

Several employees openly used their official time at the office to work on non-official business. These activities consisted of the trivial, like working on school work to the not so trivial, like increasing their income by working on their second jobs.

Diane Smith AIC was president of a company that was trying to introduce, import and market Norwegian Yogurt into the United States. Smith used her office, telephone and fax machine (at taxpayers expense) to start this venture.

AIC Howard used his office for almost 6 months, while waiting for an expected appointment to a judgeship. Howard did not work on OIC matters for this time period, but still received full pay. Bob O'Neil (U.S. Attorney in Miami) who was working on the Dean Team told me he thought it unethical and a bad precedent to allow Howard so much time after his case had ended to find employment while on full pay.

AIC Warren was paid for a 40 hour week, but his daily schedule consisted of much less: Arrival to office at 10:00 a.m.; Leave

to exercise at 12:00; Return to office with lunch at 2:30 or 3:00 p.m.; Leave for home at 4:00 p.m..

When I went to work each day, it was hard not to look around the office and feel a certain sense of irony about how our office's activities was starting to mirror that of the HUD activities we were mandated to investigate.

For example, it was Adams/Swartz belief that Sam Pierce was a dolt. That Sam Pierce did not have his thumbprints on more than one or two projects and that Pierce gave up much of the day to day running of HUD to his subordinates. Pierce delegated his powers, first to Dean and then to Demery. Adams/Swartz believed the reports that Pierce was not interested in HUD's mandate and spent most of his time watching soap operas.

Adams too had delegated much of the day to day running of the OIC to his subordinates. Adams did not spend a lot of time in Washington and even when he was in the office, he was often unapproachable. Terri Duggan was careful of who saw the Adams and of what Adams saw when in Washington. To meet with Adams you had to get an appointment from Duggan and Duggan also opened and sorted all of Adams mail.

The irony here, is that the investigations of HUD made a big deal of the fact that Pierce was invisible as a manager of HUD and

that he delegated so much of his discretionary power to subordinates.

Our office as a whole showed personal disgust for Deborah Gore Dean. Dean was made the brunt of many crude and petty jokes in our office. I can only guess the reason to be that Dean was viewed as a "fortunate son", given a high level job in HUD, which our office believed she was not experienced enough hold, so we were jealous and so we made fun of Dean for taking 8 years to finish college. We, also speculated that she had a drug problem so we sent investigators into Georgetown bars to check on her drinking haunts. AIC Sweeney even wrote to a friend of hers who was a professor at Georgetown to request Dean's transcripts from school. Sweeney and Fleck were inexplicably angry with Dean and joked about Dean's weight, hair color and choice of clothing.

What is ironic here is that Sweeney and Fleck were angry with Dean about style over substance and Sweeney and Fleck owed their jobs to Swartz and Duggan respectfully. Neither seemed technically competent for their positions, but like Dean, both had great influence over the course of the Dean's trial.

It was very amusing, our office used Dean's appointment to a government position as evidence that Dean was incompetent, and if you don't count the detailed agents in our office, then more than

half were employed because they were friends of Adams/Swartz or Duggan's.

There was also much made of Demery's trip to Vail, Colorado. In fact we indicated Demery, Winn and Debartolomeis for conspiring to mis-use travel and hotel and cars when Demery was on vacation. Our office mis-used their fleet of cars and also conspired to lie on an accident report to the GSA when one of those cars was in a fender bender.

Our office scheduled trips to Vail, Colorado and North Dakota during skiing season. Our office took several trips to Puerto Rico to investigate HUD matters. I do not know about the success or necessity of all travel by our office, but I do know that FBI agent Cutler's trip to Puerto Rico was unnecessary. Soon after, when this allegation was told to Adams and Swartz, FBI Agent Heaney's draft ROI's were edited to include Agent Cutler's name. Originally, they had only Heaney and Murphy's name.

Our office also used "mis-use" of cars in their case against Dean. Dean was accused of using official HUD motor pool cars and drivers to take her on trips to restaurants in downtown Washington for lunch. Our office brought in [REDACTED] [REDACTED] to testify that he had driven Dean to "The Guards" for lunch one day and to the "1789" on another day.

This is amazing because some in our office would use their official cars for trips to shopping malls, to Chinatown for lunch, to movies, happy hours (often leaving the office prior to completing 8 hours), to commute and to lend to spouses to use for non-official business. The leased vehicles would have all service, repairs, insurance, fuel, tolls and parking paid for by the U.S. tax payer. This cost is not great (maybe 400-500 per car per month) but when you look at the hypocrisy of charging Demery with the illegal receipt of a gift of value which was a loan of a car and room while on vacation in Vail. Dean being charged with mis-use of the HUD motor pool.

I've touched on this before, but I guess what finally occurred to me while I was working at the office of The Independent Counsel was that our office was not wearing the "White Hats".

I was told that everyone in the OIC could be making more money in private practice, but instead were working in the OIC because they believed in public service. This was not true. No one to my knowledge took a pay cut to work at the OIC and many if they were not friends of Duggan/Swartz would of been hired at their salary, given their experience.

Contracts, consulting agreements and agreements for outside counsel were handed out to friends. There was not a competitive

bidding process to help find the best services to meet our office's specific needs.

Documentation of our operations were not kept and in some circumstances we failed to adequately keep records of vacation time, comp time and per diem benefits in accordance with government regulations.

Our office shared a pathos of paranoia and was made up of a group of people who saw conspiracies at every turn. I believed Duggan really thought people were out to get her and the Judge. She was particularly fearful of the press.

Our office felt invincible and above the law, and no where was this mentality more evident than during staff meeting discussions. Attorneys frequently boasted about scaring this person or teaching a lessons to that person at a previous weeks grand jury. Attorneys seemed delighted when big name defense attorneys were hired and would merrily speculate on how much money this witness would inevitably have to spend to defend themselves. Attorneys, when asked by Adams about future indictments and when of if they had a schedule in mind, frequently would say "we can always get this guy on perjury" and if not, the IRS is sure to find something". It seemed to me that perjury or audits from the IRS were how we pressured witnesses to cooperate and if they did not cooperate, then we would indict them.

What troubled me most, was this sense that our office pursued matters for personal reasons. We seemed to not like witnesses who hired counsel and to not like even more, counsel that did not cooperate with our requests for interviews or documents. It seemed to me that Defense Counsel who acted to protect access to their clients would in turn be aggressively targeted by the OIC for investigation.

Our use of subpoena power, grand jury hearings, IRS return information, details from other agencies and unlimited resources led our attorneys towards a path of abuse and misconduct.

Our office pathos led to a belief that everything was a conspiracy and that everyone was against us. We purchased high tech security for our office, we refused interviews from the press and we monitored Congress and the media for items critical of our office.

Internally, our office was managed poorly. Most phone lines were in a pool so that individual itemized calls could not be determined. To say the least, regulation on Comp time was relaxed, no prior approval was needed -- so persons could just work if they wanted to supplement their vacation time and very often this was the case. In fact, some workers I knew would even do personal work on comp time.

Public image was very important to our office. Style over substance seemed to be the rule. During the Briscoe trial our office realized that we had made cases against Singletary, Wilson, Briscoe, Cruse, (and our ultimate goal was Pierce) and that these men were all black. Adams was concerned that the office could be criticized for this if a someone like the NAACP wanted to make a case out of it. Adams was thankful that our lead prosecutor was black, but in a staff meeting told Roscoe Howard that he should be ready for a charge of racism.

Adams was concerned that the press would make a big deal out of calls made from the OIC to "900" numbers. Adams seemed more concerned about how this would look rather than why it occurred or how it had happened or who did it.

I must admit that I believed all the talk in our office about "Public Service" and that we were the good guys. I was disappointed when I found out otherwise and disgusted when I came to learn about how political Adams was and that of his office.

Adam's OIC was not about fact finding or the careful and systematic analysis of HUD documents to locate program abuses and target those programs and persons responsible for violating them. Adams OIC was about a group of average or below average bureaucrats who saw and used their office for personal gain. It has already been a long and self-serving experiment and the

targets of our investigation was based more on personal and subjective criteria than on the body of evidence available. Our office was vindictive and hypocritical.

Our office was never able to take control of their document collection. Some of these problems were a result of early mismanagement, but other problems (due to lack of procedures to control information and the absence of enforcement policies) continued throughout our investigation, i.e., it was recommended that FBI ROIs be written within a week or two of the actual interview. I do not know what guidelines the DOJ has with regard to timeliness of these reports, but I know there were concerns inside our office with the gaps between date of interview and date the ROI was completed. Adams was concerned that the courts would question the value of an ROI where the gap was two to several months. I even remember FBI agents doing some ROIs 6 months to a year after the witness was interviewed. FBI agents changed the way they dated ROIs after Adams voiced his concerns about this matter to these agents in our office. FBI agents began to back date ROIs so that all ROIs appeared to be completed within a 5-7 weeks of the actual interview date.

I was aware of this back dating because after an ROI was completed it would be sent to me for filing. I would quickly browse the ROI for key words and make copies for distribution. Copies were always distributed to Adams, Swartz, and relevant

team members. When questions arose as to why the ROI was being distribution now when the completion date was 3 or 4 months earlier, the FBI agent would state that he/she had done the interview months ago, but forgot to send it to central files for distribution.

Adams did not seem to care that he was now receiving ROIs months and months after the designated completion date. His earlier concern about no more big gaps had been solved.

Another problem involving ROIs centered around the LRAs method for identifying Brady, Jencks and Giglio materials. I had voiced my concerns that the BRS system and the ROI database did not contain a complete record of all existing ROIs. ROIs done before I was hired might physically exist in file or on each FBI individual computer, but may not be recorded in BRS or the ROI directory.

I wanted LRAs to identify the universe of documents which might possibly be responsive to "Brady" on BRS, but then to use the CFR files for actual discovery. The reason was that early ROIs prepared by Cain, Hurlburt and Brock were done prior to the institution of safeguards and that until the OIC approved an audit of these files it was more thorough to use CFR than BRS.