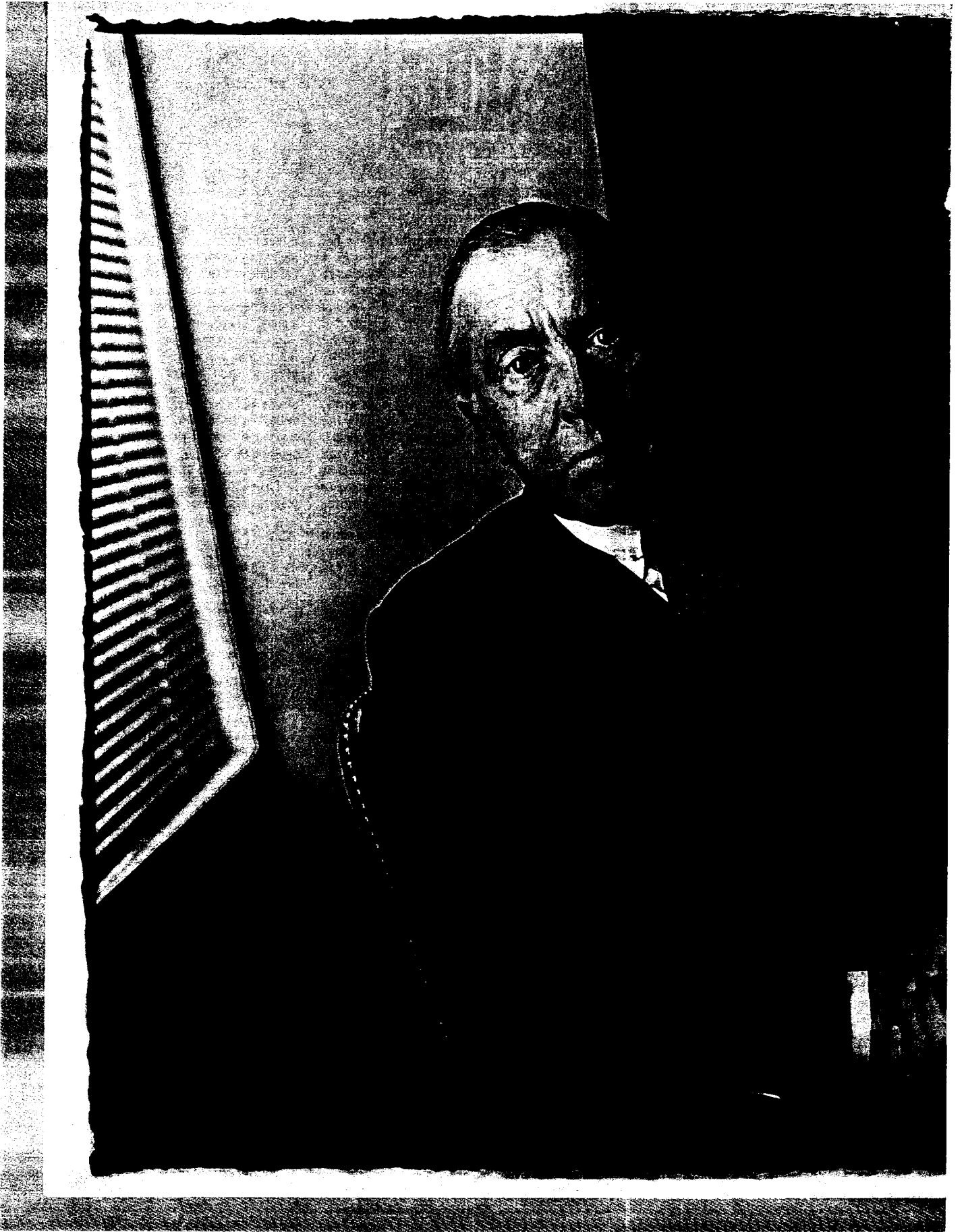
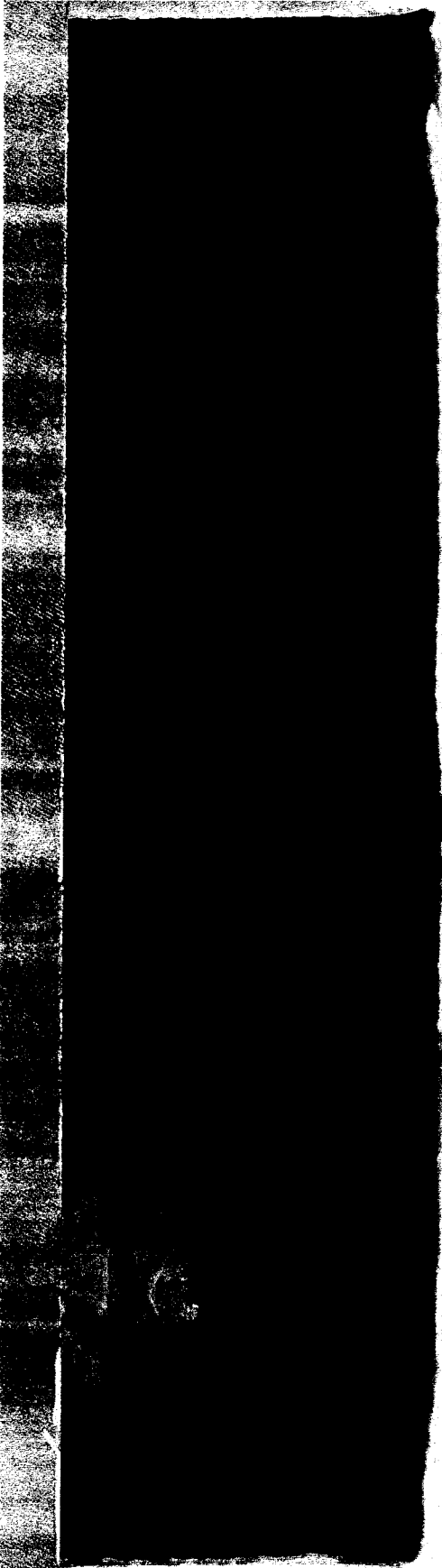


APRIL 11, 1993

THE END *of the* AFFAIR

Lawrence Walsh and
The Iran-Contra Investigation
By Marjorie Williams





BURDEN *of* PROOF

Independent Counsel Lawrence Walsh's six-year, \$39 million investigation of the Iran-contra affair leaves several questions unresolved, not the least of which is: Was he the right man for the job? ==

He looked older than usual, this Christmas Eve, greeting midnight not at home with the wife he has spent so much time away from but in the studios of Oklahoma City's ABC affiliate, KOCO-TV. Most days, buttoned into the vest of one of his gray or navy suits, he seems far younger than his 81 years. But on this night, the rigidly contained man who has led the Iran-contra investigation for more than six years had shed his vest, and with it, somehow, a portion of his crisp self-control. President Bush had just pardoned former secretary of defense Caspar W. Weinberger less than two weeks before his trial, along with five other men convicted or indicted for their roles in the Iran-contra affair, wiping

By Marjorie Williams == *Photographs by Len Irish*



WALSH SLOGGED ON,
INSISTING IT WAS A
SERIOUS MATTER
FOR MEMBERS OF THE
EXECUTIVE BRANCH
TO LIE TO CONGRESS
AND OTHER
INVESTIGATORS.

8 THE WASHINGTON POST MAGAZINE

out with one gesture all of the independent counsel's pending cases.

Lawrence Walsh was ready to let loose, on "Nightline," some of the passionate anger he has so carefully concealed for the past six years.

In response to the pardoned man's complaints that Walsh had abused his powers, Walsh said they demonstrated that Weinberger "lied just as readily to the media as he lied to Congress. He's making it quite clear that his first line of defense when he has a troublesome problem is to lie."

This was inflammatory language, the voice of fury: not the calm voice of the prosecutor who must never seem too eager to wield the wrath of the state. Earlier in the day, Walsh had revealed that President Bush, like Weinberger, had made notes at the time of Iran-contra that had only recently been turned over to the independent counsel; Walsh had referred to Bush's "own misconduct"—an explosive phrase coming from a federal prosecutor with an open investigation—and had hinted darkly that Bush might soon find himself targeted for investigation. And when Ted Koppel asked him why he thought the White House had revealed the notes now, after waiting so long, Walsh snapped, "Well, my first cynical thought was, 'It's after the election.'"

To some of Walsh's admirers, this performance—and an equally blistering appearance earlier in the day on "The MacNeil/Lehrer NewsHour"—

represented a justified sense of outrage, and perhaps a principled decision to fight fire with fire: to answer a palpably political pardon with a calculatedly political denunciation.

To his critics, on the other hand, this was the smoking gun—proof positive that Walsh was, as Senate Minority Leader Bob Dole has long argued, "completely out of control," an angry, stubborn old man bent only on producing an important scalp to vindicate his \$39 million investigation.

But from most viewers who watched him with an open mind, Walsh's responses on that day probably evoked conflicting feelings. A certain amount of outrage seemed not only understandable but appropriate, given that Bush was abruptly aborting an investigation that Walsh had painstakingly developed over so many years. Yet there was, as there has been before, something discomfiting in Walsh's manner. Was it a hint of self-righteousness? A slightly Old Testament tone of retribution? Watching it, one couldn't escape the feeling that Walsh perceived himself as the Last Virtuous Man.

Welcome to one of the deeper mysteries of Iran-contra: the character of Lawrence Edward Walsh.

WHEN WALSH WAS APPOINTED INDEPENDENT COUNSEL ON DEC. 19, 1986, he was at first an acclaimed choice. For one thing, he had a distinguished career history: He was a former fighter in the squeaky-clean prosecutorial army of New York racket-buster Thomas E. Dewey in the '30s, and later a key aide to Dewey in the governor's mansion; a onetime federal judge, and former second-in-command of Eisenhower's Justice Department; a former president of the American Bar Association, and for 20 years a senior litigator at one of Wall Street's most august law firms—a role in which he lost only a single case at trial. His profile as a faithful Republican, combined with what all of his former colleagues described as a disciplined, almost Victorian sense of duty, made him seem the ideal man to untangle the nation's gravest constitutional crisis since Watergate.

But the longer his investigation has gone on, the more Walsh has come under fire. In six years, he has sent only one man to jail. He secured 11 convictions, seven through plea bargains. But his two most important convictions were reversed on appeal; six other figures in his investigation—four already convicted of crimes—were pardoned by President Bush on Christmas Eve. In all this time, he has never been able to submit to a jury's scrutiny the cen-

tral misdeeds of Iran-contra—the sale of arms to Iran in violation of the Arms Export Control Act, and the violation of the Boland Amendment forbidding covert assistance to the contras—only the bits and sub-parts and subsequent efforts by the defendants to cover up those deeds.

Most of this bleak result is not Walsh's fault; he has labored under the burden of congressional weakness; of outright stalling and subtle obstruction by two Republican administrations; of allegedly false testimony by the key figures in the investigation; and of unlucky breaks in the appeals courts.

But still there is debate over the choices Walsh has made in meeting these burdens. And the most interesting debate is not the one that rages between partisan critics and passionate defenders, but the one that quietly occupies the minds of his friends, admirers, and former colleagues from the counsel's office—those who believe, with Walsh, that Iran-contra represented genuine threats to America's way of governing itself; who would still like to see Walsh meet some definition of success; yet who acknowledge wondering whether he has pursued his investigation past the point of reason.

Their debate always runs aground, eventually, on an unrecognized subtext: that Walsh's was inevitably an impossible job. Although he was appointed only to pursue the criminal dimension of the Iran-contra affair, he was subtly assigned, too, a responsibility for policing its far murkier moral and political dimensions. As the years spun by, Walsh's investigation became the repository for all the leftover grievances and expectations roiled by Iran-contra; Walsh the designated conscience for America's inability to come to a common understanding of what Iran-contra was and whether it mattered. As long as he has still been out there, frowning his distinguished brow over all those details the rest of us have long forgotten, then we haven't had to acknowledge how content we have been to see the whole business slide, unresolved, into the misty past.

It is not Lawrence Walsh's fault that we have given him this burden. But extensive interviews with people who know him well suggest that he was tragically well suited for the job, the perfect candidate to bear such a burden in the heaviest possible way. He brought to Washington a quirky, rigidly thorough approach to the law; an outsize faith in his own vision of how government should work, and his own moral standing to enforce it; and an otherworldly stamina that has always blurred the boundary, in his life, between duty and obsession.

He has been compared to Shakespeare's King Lear, to Victor Hugo's Inspector Javert; to Captains Ahab and Queeg. The seafarers make tempting, if unfair, comparisons, for if Lawrence Edward Walsh has any passion beyond the gray lure of the law, it is a love of the sea. But the most apt analogy for him is not Ahab, hunting his great white whale; and not Queeg, bent on searching out a culprit who doesn't exist. It is the Ancient Mariner of the Coleridge poem: a man condemned forever to collar reluctant passers-by, without resting, and tell them of the horrific journey from which he has only barely returned.

Perhaps only Lawrence Walsh could have summoned the drive to pursue Iran-contra so far. And only Iran-contra could have made Lawrence Walsh's virtues seem indistinguishable from his flaws. When the granite nature of this man met the amorphous fog of Iran-contra, and all the political confusion it swathed in its mist, it was almost inevitable that Walsh would come out the loser.

CRITICS OF LAWRENCE WALSH HAVE MADE MUCH OF HIS "POSH" OFFICES in a fancy downtown office building, one of the enormous faux-marble behemoths built during the boom of the '80s. "Just ignore the chandeliers," says a caustic Mary Belcher, the office's spokeswoman, as she escorts a visitor through the office.

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THE TRUTH IS THAT
WHEN WALSH
FINALLY GOES HOME,
HE WILL LEAVE A
PERCEIVED LOSER.
WHAT WAS THE
FINAL FRUIT OF ALL
THAT EFFORT?

grant red blood oranges with a faint jalapeno buzz. I'd happily eat the sorbet all by itself, but it does form unexpected harmony with the peppery rough-cut tomato sauce and the shrimp.

Then I tasted the day's special soup, sweet potato bisque with oranges and toasted pecans. In one of those brilliant leaps of imagination, Hagedorn had teamed two sweet elements—sweet potatoes and oranges—that somehow modified each other's sweetness. And the buttery, crunchy pecans unexpectedly softened the richness of this intensely delicious soup.

The appetizers I sampled leapt from one high wire to another. The eggplant vase was such silliness that I expected to find the first bite embarrassing. But no, it was silky and not oily, balanced nicely by the slightly crunchy green beans. Even more surprising, the chalk-white feta ranch dressing and alfalfa sprouts floating around it seemed made for eggplant. Another flight of fancy: light, puffy sourdough pizza crust topped with barely cooked smoked salmon, bits of radish, cucumber and feta cheese. It combines salad and bread to the benefit of both.

Okay, so the "corn" on the cob strikes me as a little weird, with its sweet carrot center (though others at my table liked it), and the "tumbleweed" of salmon—wrapped in fried pasta that looks like unraveling balls of wool—turns out to be overcooked fish with long, hard pasta strands that are as pleasant to eat as toothpicks. But those are exceptions.

You might as well thoroughly investigate the appetizers, because the flights of fancy don't work as well writ large. Something that piques the taste for four bites can short-circuit your tastebuds as a whole entree.

At least there's no such problem with the lamb stew, which the waiter offers to "decant" from its little iron cauldron. The lamb is lean and browned, floating in a broth with myriad Middle Eastern spices and a dash of pepper. The stew also includes plump tart apricots, mellow chunks of sweet potato, sweet little green peas and soft whole garlic cloves, all soaking into the bed of couscous. I only wish the concoction had stewed together longer so that the lamb had absorbed the flavors, but admittedly that is a fine point.

I had stronger quarrels with other entrees. Mussels are served in a deep glass bowl with orange-flavored noodles that tinge the broth, reinforced by orange sections. While each component is carefully prepared, the briny mussels and sweet-scented broth don't quite connect. And

the deviled crab (shredded meat rather than luxurious lump crab), served in a fried dough shell with green noodles, looks decorative but, like the mussels, suffers from a cloying sweetness in its mango beurre blanc.

Hagedorn cooks fish admirably. A pyramid of salmon is crusty and meltingly soft, posed on a triangle of coarse white polenta and flanked and flavored with grilled peppers. A special of mixed grilled fish has little intrinsic flavor in the fish itself, but the cooking is precise (the waiter warned us that the fish would be thoroughly cooked unless we asked for it otherwise) and the accompaniments—corn and bean relish, julienned carrots with haricots verts and sauteed potato cubes—make up for any missing flavor.

Steak is not treated with quite the same respect. A thick and beautiful tenderloin was cooked to a pitiful state, not helped by a faint bit of oyster butter. It made me wish I'd skipped the meat and just had the "lots of fried potatoes" the menu promised—and delivered. In fact, next time I'd more seriously consider the plate of sauteed vegetables with almonds, feta cheese, sesame seeds and tamari. (Vegetarians have happy grazing here.) The menu also lists chicken—in papillote or barbecued with ancho chilies and peaches—a veal chop and a Punjab seafood fajita, if you can believe that.

With desserts, as with the appetizers, the more elaborate, the better. Chocolate truffle phyllo tart is not nearly as heavy as it sounds, a phyllo cup filled with what tastes like a melting truffle and surrounded by a crosshatched, wonderful, tangy passion-fruit puree. Frozen lemon curd is intense and refreshing. Both it and the tart outshine the creme caramel brulee.

Trumpets attempts a lot, and it doesn't always succeed. But it and the diners sure have fun trying. ■

Solution to Last Week's Puzzle

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WALSH

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In fact, everything about these quarters has the air of the backwater. Once upon a time, young lawyers by the dozen pulled every string they had developed from their Ivy League law schools and their federal court clerkships to earn a spot on Walsh's team. Now, the legal staff has been whittled to eight. Though they talk desultorily of completing their "on-going investigation" into Bush's failure to turn over earlier his vice presidential notes about Iran-contra, little remains for Walsh but to craft a final report summing up his long, frustrating job.

A visitor approaching the office of the independent counsel must first stop at a dingy reception room, where a uniformed member of the Federal Protective Service is shuffling his D.C. Lottery entries for the day. The airless room, featuring nothing more welcoming than a dirty tan carpet and a run-down couch, is cramped by stacks of xerox paper and miscellaneous brown packing boxes.

Behind the door that sets off the "Sensitive Compartmented Information Facility" in which the staff is sequestered, a slightly cleaner drabness prevails. But the greatest surprise in the office is Walsh himself. His greeting makes him seem gentle, self-effacing, and as warm as a very shy man can manage to be. Can this nice old gent really be the brooding inquisitor of Bob Dole's broadsides? He has the diffident man's awkward, somewhat apologetic laugh, especially when he talks about himself; from time to time, he actually blushes. In photographs, the angular planes of his face and his deep-set green eyes give him the imposing, Old Testament look of the man his young colleagues all call "Judge Walsh." In person, he is the man his friends know as "Ed," a slight fellow with a smile charmingly flawed by an asymmetry in the lengths of his front teeth.

"You begin to wonder," he explains mildly, in the odd second-person form that seems the only way he can speak comfortably about himself, "is there any way you can make your critics understand the enormity of the job, and why you can't control the timing? You're at the mercy of the people who produce the records. You're at the mercy of the witnesses who take their time in deciding to tell you all the facts, and you're at the mercy of the courts who schedule your cases, and who schedule your appeals.

"But how do you explain all this, particularly if somebody doesn't want to listen?"

His disarming manner is especially startling to someone who has spent weeks interviewing former colleagues of

OBSTACLE COURSE

LAWRENCE WALSH'S INVESTIGATION has been by far the longest and most expensive of any undertaken by an independent counsel in the 15 years since Congress created the office. As of last November, his office had spent \$33.9 million in direct costs. In addition, the General Accounting Office has estimated an additional \$5 million in costs to other federal agencies, such as the FBI, in support of Walsh's investigation.

But in many ways it is unfair to compare Walsh's effort with those of any of the other independent counsels, most of whom were appointed to investigate a specific question or episode involving a single individual. From the start, he has encountered an unprecedented set of obstacles. "Mine was difficult enough," says New York attorney Leon Silverman, who was appointed independent counsel in 1981 to investigate Reagan administration Secretary of Labor Raymond Donovan, "but child's play compared to his."

At the time he was appointed, Congress was mustering its own select committees to investigate the bombshell revelations that the Reagan administration had sold arms to Iran in an effort to get American hostages released, and set up a plan to divert the proceeds to the Nicaraguan contras.

But from the beginning, Congress's desire to air the scandal in public was in direct conflict with Walsh's assignment to prosecute any illegalities involved. Walsh's first important prosecutions—of national security adviser John Poindexter and his aide, Lt. Col. Oliver North—were derailed by the select committees' decisions to compel the defendants to testify by giving them immunity against prosecution for anything they said.

After an elaborate effort to prove that he and his staff had totally insulated themselves from the congressional testimony in the summer of 1987, Walsh was able to convict North and Poindexter, on charges including obstruction of Congress and the destruction of documents, in 1989 and 1990. But the charges were later dropped after an appeals court ruled that Walsh's precautions—though as tight as humanly possible—had been insufficient to guarantee the defendants' rights.

Says Georgetown law professor Sam Dash, who served

as chief counsel to the Senate Watergate Committee, "It's okay for the Congress to immunize, on the theory that getting at the truth quickly, and laying it out before the people, is the most important thing. But this particular Congress didn't get to the truth, and didn't really try to . . . All they did was ruin Walsh's chance to really be an effective prosecutor in that area."

The other great difficulty in his path was the amount of classified material involved in prosecuting officials from the nation's top national security circles. Walsh was forced to drop the most sweeping count of his indictment of North and Poindexter—a broad conspiracy charge attempting to establish that the Iran-contra operation itself had been illegal—when North argued that he couldn't defend himself without the use of documents that the Reagan administration was unwilling to declassify. Many of the "secrets" the administration withheld were absurdly public facts, widely reprinted in newspapers around the world. But the Classified Information Procedures Act allowed White House and Justice Department intransigence to rule the day. This would be a major difficulty in later prosecutions as well, under the Bush administration, forcing Walsh, in November 1989, to drop altogether the prosecution of CIA Costa Rica Station Chief Joseph Fernandez.

In addition to the classified information problems, Walsh encountered systematic foot dragging by the many agencies from which he needed cooperation. "One of the reasons this has taken so long is that for six years . . . Walsh has gotten the minimum of cooperation from many government agencies," says former associate counsel Michael Bromwich. "He basically has had no positive cooperation—people willing to go the extra mile because they wanted to see him succeed—for six years."

"There's not a single independent counsel investigation ever that had to deal with that amount of complexity," observes Tom Blanton, executive director of the National Security Archive, a nonpartisan research institute built largely on the wealth of declassified documents yielded by the Iran-contra cases. "That number of agencies, of individuals; that complexity of material. And then throw in as your aperitif the withholding of information by all these guys." —M.W.

Walsh's, from both this office and earlier days. With a few exceptions, the sad fact is that people who have worked for Walsh like him far less than people who have not. As a litigator, he is seen—usually approvingly—as relentless and tough; as a man, he is almost universally described with words like "cold" and "aloof."

"He was not the kind of guy you'd want to spend the weekend with," says one former associate counsel. "I think he's endured far more abuse than he deserves, but he's not a cozy guy."

"There were people of his generation from whom he sought advice, from time to time," said another former colleague. "But I never thought he had friends;

I was very sorry for him, frankly."

He has almost never lunched with colleagues who have rotated through the office—most of whom were, in any case, 40 or 50 years his junior. He has a sandwich every day at his desk, alone. Though he has five children, his office contains no personal mementos of any kind; he had been in Washington for six or eight months, according to Walsh associate Jim Wieghart, before he had dinner with a daughter who was then living here. More than one former colleague on the investigation described his or her essential memory of Walsh as a mental photograph of the former judge standing alone, behind his desk, brooding.

Wieghart, a former spokesman for the office who now serves it as a consultant, is one of the colleagues who knows and likes Walsh best. "It's very difficult to penetrate the personal Lawrence Walsh," he says. "I think he just limits that part of his life."

When he is in Washington, he trudges a steady path from the Watergate Hotel, where he stays, to the Office of Independent Counsel on 13th Street, where he works, and then back to the Watergate, where he works some more. He does not go out to dinner with any of the eminent acquaintances he has made in Washington in the course of his long career. He does not go to the pool and swim laps, as he

would at home. He orders room service.

One lawyer who worked for Walsh in the earliest stages of the Iran-contra investigation remembers dropping off papers for him at the hotel, late at night. "And he was still working—in a coat and tie, at the little hotel desk, as though this was what everybody does at 11 o'clock at night when they're 75 years old."

That, of course, was six years ago; now Walsh is 81. Yet in the morning, he rises to two or three more hours' work before he heads back to the office. These days, with his investigation winding down, he can spend every second or third week at his home in Oklahoma City. But for most of this time, he has been a weekend commuter.

Of his monkish existence in Washington, he says, "I've always done that when I've worked out of town. It saves—I was going to say, 'It saves you from thinking.' If you're just thinking about the case, it saves you a lot of trouble."

THOUGH HE MAY BE GIVEN TO SIMPLE, plain-as-a-board observations, Lawrence Walsh is hardly a simple man.

His young associates on the Iran-contra case learned early that Walsh has a quirky, stiff-necked pickiness about his surroundings. Once a colleague brought in a box of doughnuts to enliven one of the long staff meetings that Walsh favored. As recounted in *Opening Arguments*, a book by former associate counsel Jeffrey Toobin, "When Walsh walked in and saw the box, he growled, 'Get rid of those.'"

Walsh's judgments on people can be swift and merciless: He habitually referred to a certain defendant's lawyer as "that hopeless windbag," according to one attorney. And for reasons none of his associates could understand, he took a particular dislike to Albert Hakim, one of the middlemen in the Iran-contra transactions, above all the other defendants the office prosecuted. So fixed was this prejudice that it was on display in a recent interview, when Walsh raised his name with an expression of particular distaste, then waved it away with a flushed face and a dismissive gesture.

Walsh's temper is legendary. Wieghart describes it as "his occasional wild moodiness," while others talk of receiving a withering glare for a fact unmentioned or a question unasked.

When various federal agencies would drag their feet in producing the documents Walsh needed, he would suggest—with apparent seriousness—that the office prosecute the government employee he saw as responsible. "There would be a bureaucratic logjam or something, and he'd say, 'We ought to indict the guy,'" recalls Bryan Blaney, a former associate counsel. "It was like a goblin came out in

the conference room," says another of Walsh's former colleagues. So serious did Walsh seem that lawyers new to the office found themselves deeply disturbed by these episodes; but more experienced colleagues had learned to take them in stride. Everyone who described Walsh's temper stressed that the office never did, in the end, indict any of the people whose names came up in this fashion. "We never did anything close to that wacky," says one lawyer. "But we had to spend considerable time talking him out of it."

In fact, a more common complaint among Walsh's former associates is that he was *too* deliberative in pondering the office's indictments, supervising endless debates among the staff and putting off decisions for as long as possible. "He had a hard time making up his mind. About a lot of things—very important things," says one former prosecutor who witnessed the office's lengthy debate over when and on what grounds to indict Oliver North. "Your reaction might be, those are all important issues. Absolutely, and they deserve to be thoroughly discussed. But I think a lot of people in that office think they were discussed ad nauseam, again and again and again and again—without ever pushing the ball down the field toward an answer."

"I almost went mad" over the North indictment, says Wieghart, who acknowledges that some of Walsh's indictment decisions have dragged on. "Practically every lawyer in this office has gotten to the point of coming in and putting a knife to his own chest and saying, 'If we don't do it today I'm going to end it all.'"

It is as if these two sides of Judge Walsh—the infinitely careful senior statesman and the volcanically impulsive man who reveals himself among his trusted aides—exist in perfect balance.

Another facet of Walsh's character that is mentioned by a majority of former associates, from both the Iran-contra era and his earlier work at New York's Davis Polk & Wardwell, is his marked, rather cruel perfectionism.

"He's absolutely unforgiving as a taskmaster," says one former associate from the law firm. "No amount of work is too great. No mistakes are permitted; everyone is expected to work around the clock. Before we filed a brief, he would hold it up to the light and make sure the lines all began in relatively the same place on the page, so it wouldn't be too distracting to the eye, to find a different starting place on each new page."

In one incident that became legend at Davis Polk, Walsh asked an associate to postpone his honeymoon so that he could appear as a witness in a side proceeding related to a case then at trial. When the young lawyer pleaded to be excused, Walsh

asked the judge for a court order compelling his colleague to appear. This plan was derailed only when the opposing counsel told the judge what Walsh was up to.

But even many of those least fond of Walsh agree on one virtue: that his essential motivations are good ones.

"In some respects, because of his perfectionism, he's easy to demonize," says a former Davis Polk colleague. "But he always struck me as an extremely straight arrow . . . I guess you can argue about his means in some instances, and maybe you can argue that he was too sure he was right in some instances, but he would never, ever do something he didn't think was right on the merits."

Walsh was brought up in the Eastern, establishmentarian party tradition that favored economic conservatism but had a quasi-liberal faith in the possibilities of good government. Thomas E. Dewey, for whom Walsh worked for four years as a prosecutor and for eight years as part of a gubernatorial administration that Dewey biographer Richard Norton Smith described as having a "slightly gray tint of excellence," set Walsh an example of rectitude in public office. He carried it into service on various state boards, including a commission appointed to end corruption on New York City's waterfront; onto the federal bench, to which Eisenhower appointed him in 1954; and into the Justice Department, where he became the officer chiefly responsible for, among other things, guiding the infant Civil Rights Division.

Walsh is, of course, a man of the world. He has never been above manipulating the reins of power—using the sterling connections of a former deputy attorney general, for example—on behalf of his clients. In the early '70s, he was able to help Davis Polk client ITT settle a major anti-trust suit by the Justice Department on advantageous terms, in part through a famous "Dear Dick" letter to Deputy Attorney General Richard Kleindienst.

But such contacts fall within the mores of the old-fashioned Republican gentlemen's club; a very different matter from lying to Congress, in Walsh's mind, or from any of the other extravagantly ideological shenanigans of the Reagan era. The material of Iran-contra deeply engaged and even shocked this man, who still refers to himself unblushingly as "a Dewey Republican."

Some of those who know Walsh charge that his moral clarity borders on moral arrogance. "He has a certainty of rightness about him," says Miami attorney Chesterfield Smith, another past president of the ABA. "He believes that his motives are pure, and he questions judgments that are inconsistent with his, therefore . . . He respects his own opinions far more than he does anybody else's."

Others characterize his clarity as a kind of innocence. "I think that what was most impressive to me was that he was a man of great moral uprightness," says one former associate counsel, "but also a man of some simplicity. The core issues weren't complex: The core issue was that these people had lied, when they were in a position to tell the truth . . . They just lied outright. That was incomprehensible to him."

If Walsh judges others harshly, it is apparently no more than he does to himself. Colleagues remember, with a degree of puzzlement, how burdened—even tormented—he seemed by his responsibilities. "He seemed a tortured man, to me," says one former colleague. "Tortured in a good way, if there is such a thing. He wanted to do the right thing; he wanted to do the responsible thing; he wanted to do the correct thing."

This sense of duty was especially keen, former colleagues say, when Walsh contemplated the elderly men he saw as his peers on the legal scene: men such as the three judges of the U.S. Court of Appeals who appointed him; and men like the late Judge Gerhard Gesell, who tried the case of Lt. Col. Oliver North.

"I don't think I ever saw him enjoy it," says a former associate counsel, of Walsh's tenure in the office. "He was appointed to do a duty that was a very important duty, and he was going to do it if it killed him. But I can't think of a single day when he enjoyed it."

IT PAYS TO REMEMBER THAT WALSH IS a man for whom duty and gratification are indistinguishable, conflated years ago as he grew to manhood.

Walsh was born in Nova Scotia, in the small town of Port Maitland at the mouth of the Bay of Fundy, a scene he remembers with a vibrant specificity. "It's a fishing hamlet, actually, it's not even a village. A school and two general stores and a post office." The sea was in his blood: His maternal grandfather—one of the most important figures in his life, according to a friend—was a sea captain, whose service dated back to the age of square-rigged ships. Though the family moved away from Canada when Walsh was only 2, he returned every summer until he was 12 to stay with his grandparents.

Walsh's father was a small-town doctor, who relocated to Queens in New York to study ear, eye, nose and throat medicine as a specialty, and then stayed to establish a practice there. So Walsh was raised in Flushing, when it was more like a village than a part of New York City. He remembers it as a happy boyhood, with parents who "weren't harsh, but they were strict."

And yet, his self-descriptions yield a

theme of financial peril. Soon after Walsh turned 15, his father died suddenly, leaving him, his mother and his sister with a shaky financial foundation. Lawrence worked his way through college and law school at Columbia University, clerking in a bookstore, doing Christmas duty at the Post Office, earning his meals by working two hours every day in the cafeteria. Summers he put out to sea—to Germany, Puerto Rico, Buenos Aires, Manila, mostly on steamships, working as everything from a bellboy to a seaman.

He was supposed to be an engineer, he says; that's what his father had wanted. But "I didn't do very well in math, so I couldn't be an engineer." Instead he switched, during his undergraduate years, to pre-law. He wasn't looking for the high-wire career he has had: He was only hoping, he says, for a career in trusts and estates law.

This remark is typical of the humility that runs through all his conversation about himself. This is not the blithe self-deprecation that marks many accomplished people, but a powerful, seemingly unconscious belief that in his life he has only narrowly escaped failure.

"I wasn't a good student in either place," he says of college and law school. "I was good enough to get into college, but in college I really became much more interested in extracurricular activities than I should have." (Chiefly swimming and rowing, at which he was, he says, "hopelessly outclassed.") "Law school was a lot more serious than college," he continues, "and my first year at law school I did not do well."

He graduated from law school in 1935, while the Depression dragged on, "and it took a long time to find a job." Again and again, he alludes to the harsh lessons he learned in the Depression. His most vivid, most personal language recounts his anxiety of these earliest years, when his future seemed, in his word, "gloomy." When he did find a job, as a special assistant attorney general on a Brooklyn bribery investigation, he worried constantly about losing it. He determined to become the hardest-working young lawyer in the city.

At one point in his early career—even after his first marriage, to Maxine Winton, a year out of law school—"I remember figuring out to myself that if I had one night at home a week, it was better than average," he says.

As he rose through his series of impressive jobs, he became no more gentle with himself. It was all very well to have a federal judgeship; to become chairman of the ABA; to be elected to Columbia's board of trustees; to be appointed to the second chair at the negotiating table in the Paris peace talks, as Walsh was in 1969. Even after he became a senior lit-

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igator at Davis Polk, doggedness remained the keynote of his legal style.

From 1961 to 1981, when the firm's standard retirement policy forced him to leave, Walsh did civil litigation for corporate clients such as AT&T, R.J. Reynolds, General Motors and the chemical firm Richardson-Merrell. A large corporation that hired him typically had a very important case, with a very large potential stake or liability; the kind of case in which time and money were no objects in pursuit of victory. Walsh was famous for researching and pondering every possible question or document or wrinkle that might arise at trial. While he was capable of very imaginative argument, former colleagues say, the essence of his style was his thoroughness, his insistence on 100 percent certainty.

"A lot of lawyers believe . . . that improvisation is the core of litigation," says a former colleague from the law firm. "But Judge Walsh is entirely the opposite. A lot of lawyers would think Judge Walsh is from another planet."

Another former Davis Polk colleague says, "I'm not sure he ever had the confidence to say, 'This is the direction we're going to go, and we've done enough to get there' . . . Some people are confident enough to make a decision after looking at three-quarters or seven-eighths of the facts, and are willing to live with the risk of knowing that there's a one-eighth still out there. He was not a man who ever liked making judgments of that kind."

This person observes that the habits Walsh has brought to Iran-contra are the habits of a lifetime. "I'm not surprised at a single thing," he says. "I'm not surprised that he dug in, that it took him a long, long time, that he spent a lot of money, that he has chased everything to the end. It doesn't surprise me a bit: That's the way he litigates . . . He did it with every case he ever had here."

Walsh admits that, well into his sixties, his memories of the Depression pushed him to take on more cases than a normal man could quite handle. "It never is a perfect balance," he says. "As between being light and being overloaded, there was a certain amount of comfort being overloaded . . . I go back to the Depression, that reaching for security that is there, and it becomes instinctive."

Naturally, other parts of life fell by the wayside. He has, however, always kept up his exercise, and for years he sailed small boats in the summer, off Cape Cod. The year after Walsh's first wife died of cancer, in 1964, he married his second, Mary Alma Porter. But beyond these scant facts, even close friends and colleagues tend to be stumped for information about Walsh's life outside the office.

"I've never seen another part of his life

that he's interested in, or that occupies him in any positive way," recalls a former colleague from the independent counsel's office.

But is Walsh's pattern so different from the life of any very successful, hard-driving man? Only in the clarity with which he lets you know that his drive is rooted not in arrogance and ego, but in an early sense of inadequacy. Walsh suggests this answer most starkly when he is asked about his reputation for aloofness.

"I blame it all on law school," he says, without missing a beat. "When you waste your opportunities in law school, you have to work extra hard for the rest of your life."

He pinkens, laughs a little, as he so bluntly reduces his life story to this simple calculus of crime and punishment. But then he rushes on, with the eagerness of the un-introspective man stumbling on self-knowledge. "That started out as a joke," he says, "and now I begin to wonder if there's some truth to it."

IT'S AN INTERESTING COMMENT ON THE puzzle of Iran-contra that among Walsh's most thoughtful critics, there are diametrically opposed opinions about where he might have gone wrong:

He should have indicted Lt. Col. Oliver North and former national security adviser John Poindexter earlier than he did (some say), before Congress could ruin his case by granting them immunity in exchange for their testimony at congressional hearings in the summer of 1987.

No (say others), the important point is that he should have insisted on prosecuting a broad conspiracy charge, as he initially tried to do.

No, he should never have tried to prosecute the conspiracy at all: He should have stuck with charging perjury and other obstructions of congressional investigations, and then called it a day.

He shouldn't have given a plea bargain to Robert C. "Bud" McFarlane, who, though a chief participant of both the arms-for-hostages sales and the secret funding of the contras, was allowed to plead guilty only to four misdemeanors (and who, despite his promises of cooperation, later helped to torpedo Walsh's case against North).

He should have given immunity to Albert Hakim . . .

He should have given immunity to Joseph Fernandez . . .

Behind each one of these opinions is a valid strategic argument, for anyone intrepid enough to follow it through the twisty maze of the case. But almost from its first rumblings, Iran-contra developed an arcane quality, making it the exclusive property of a small gang of initiates, conspiracy buffs and professional Iran-

contralogists. It involved so many countries, so many different operations, so many layers of untruth laid down first in the course of the arms-for-hostages and funds-for-the-contras dealings themselves, and then later in the course of the investigations.

The very complexity of the arguments used to second-guess Walsh draws a compelling picture of how difficult a job he was assigned, and how unlikely he was ever to achieve something that consensus could call success.

Some of this difficulty grew out of the obstacles that came with the territory of Walsh's investigation [see story Page 19]—particularly the inconstancy of a Congress that couldn't make up its mind about how far it dared go in punishing a popular president.

The joint congressional committees that investigated Iran-contra set themselves a deadline that precluded a very thorough job. In return for striking deals with its witnesses that undermined Walsh's later prosecutions, Congress got very little. North was allowed to testify without prior questioning by the committees' investigators, and to edit his diaries heavily before they were presented as evidence. And when faced with the antic patriotism North displayed in his testimony, most committee members lost their nerve.

The chief fear of the congressional hunters was that they would actually catch their quarry. "They were very much afraid of Reagan's reputation, and that there would be a backlash if they got too close to him," says Georgetown law professor Sam Dash, who served as chief counsel to the Senate Watergate Committee. "The manner of their presentation, how they called their witnesses, and how they failed to thoroughly investigate, confused the public rather than cleared things up, so that at the end the public wasn't sure who the black hats were and who the white hats were . . . At the end, the public was terribly confused as to what the Iran-contra affair was all about."

Walsh was left with the heavy expectation that he would be able to get at the truth that the senators and representatives had not pressed for. Said one former staffer for the committees, "A lot of [the committee members], I think, just threw up their hands and said, 'Walsh will have to get this; we'll never get it.'" The unspoken corollary was that it would also now be up to Walsh's investigation to achieve the moral conclusiveness the congressional hearings had not; to establish not just who had broken the law in Iran-contra, but *why* it was wrong.

But of course, Walsh's assignment under the law was not to lay out a broad

concept of Iran-contra's importance; it was to prosecute specific crimes by specific individuals. And over time, it became clear that he could not prosecute the underlying events of Iran-contra, only the efforts of administration officials to cover it up by destroying, altering or withholding evidence, or by lying to various investigators, both before and after the arms sales became known. Walsh's indictments and convictions over the years have shown that the crimes that can be proved here tend to be particular, date-specific, narrow offenses. Important crimes, in the scheme of constitutional law, that add up to genuine violations of congressional prerogatives, but not crimes that give an opportunity to present, in any coherent narrative, the kind of concerted lawlessness that lay at the heart of Iran-contra.

The great irony, in the way Congress abandoned its role to Walsh, was that Congress itself was—or should have been—the complaining party in Iran-contra. At issue were the Reagan administration's systematic efforts to circumvent the role in foreign relations that Congress derives from its power of the purse. "Iran-contra was first and foremost a constitutional crisis," says Reid Weingarten, who was drafted by Walsh to handle the prosecution of middleman Richard Secord. "Congress was the victim, and Congress dropped the ball."

Or rather, passed it off to Walsh. But this was a setup: As much as it wanted to be relieved of its responsibility, it didn't especially want Walsh to succeed where it had failed. Some members have continued to support him and share his views of Iran-contra's seriousness. But since 1987, many prominent members have edged farther and farther away from reckoning with Iran-contra.

In 1989, the Senate confirmed President Bush's former vice presidential national security adviser Donald P. Gregg as ambassador to Korea, despite unresolved questions about whether he had known of North's secret operations to support the contras. Then, in 1991, former CIA deputy director Robert M. Gates was confirmed as director of central intelligence, despite conflicting testimony at his confirmation hearings over whether he had told the full truth about when and how he learned of North's activities. In each case, the confirmation was an admission that senators didn't really want to pursue Iran-contra into the Bush White House—and a signal that association with the scandal no longer carried any taint.

Clearly, a good part of the country shared this disinclination to know too much. On the one hand, national polls have shown overall support for Walsh's efforts. But on the other hand, voters in the presidential election of 1988 ignored

considerable evidence that as vice president, Bush had known of and supported the arms-for-hostages trade.

A vast, silent political referendum had been held, and had concluded that, well, yes, Iran-contra was bad. But not perhaps as bad as some other things. In the end there would be no serious political sanctions at all against an administration that presumed to hijack the prerogatives of Congress, if the executive was popular enough. It was over; it could be allowed to slip back into our wake, if only we didn't have to acknowledge too directly what we were winking at.

Walsh alone ignored this consensus, because Walsh was not about politics. Only Walsh, with his anachronistic sense of duty, slogged on, insisting that it was a serious matter—a serious *crime*—for members of the executive branch to lie to Congress and other investigators. He had an assignment, which charged him to keep investigating for as long as he kept turning up possible crimes.

In the utilitarian political universe of Washington, consistency like Walsh's is distinctly suspect. It began to seem . . . rigid of him to care so much. So un-Washington. Hence the gathering critique of his efforts as vindictive, extreme. *Ideological.*

Thus by June of last year, when he indicted Weinberger for lying about the existence of his extensive contemporaneous notes about the affair, Walsh's critics were able to depict him as a scalp hunter, determined to bag someone of Weinberger's lofty title. Hadn't Weinberger, after all, opposed the arms sales in the first place?


Not only Sen. Warren Rudman, who had been the Republican co-chairman of the congressional joint investigating committees, but Daniel Inouye, his Democratic counterpart, publicly questioned Walsh's wisdom in bringing the indictment. For them to give Walsh the benefit of the doubt, men like these would have had to sustain a sense of outrage that simply isn't thought productive in Washington; it has no functional benefit to them. And the rest of the country, in order to care, would have had to be able to pierce the curtain of complexity that surrounds the whole affair.

EXCEPT FOR THE ALL-OUT PARTISANS, most of the critics acknowledge the difficulties that have beset Walsh's investigation. They also grant the strange, self-perpetuating quality of an investigation that prosecutes a coverup: The more Walsh investigated, the more people lied to him; the more people lied to him, the more he was duty-bound to prosecute their obstructions.

Yet even many Walsh sympathizers

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tend to feel that the length of his investigation has undermined the credibility of his work. The most devastating comments to this effect come from former associates in the independent counsel's office, half a dozen of whom spoke about their misgivings for this story, on the condition that they be allowed to do so anonymously. Most decline to say precisely when he should have been able to wrap it up; but they have watched Walsh make decisions from up close, they say, and don't entirely trust him to move as quickly or as fairly as he might.

"I admire him because he is tough as nails," says one former associate counsel. "On the other side, I . . . was concerned about toughness being substituted for wisdom."

"Especially since there are so few limitations on an independent counsel," says another, "it is important for an independent counsel to show his own sense of limitations. And that's one area where Judge Walsh could have shown a greater sense of constraint."

Some former associates hint, uncomfortably, that they believe Walsh may have been unconsciously motivated to continue because his own alternative—returning to Oklahoma City, a place where he has few roots, and picking up a greatly truncated law practice—was bleak.

"Has he consciously extended his duties as independent counsel because of that?" wonders one former colleague. "No, absolutely not. Would he be appalled if it were suggested to him? Absolutely . . . Has it possibly been a factor? I can't say no."

In fact, Walsh resisted retiring in 1981, when he reached the age of 70. His firm's retirement policy was absolute: Not only did he have to quit practice at Davis Polk, but he was not allowed to continue practicing anywhere the firm could define as a competitive arena. (Actually, he could have accepted a senior sinecure, becoming "of counsel," to the firm; "which is a very nice arrangement," he sniffs, "but you don't practice.") So he moved to Oklahoma City—which was his wife's native city, but far from the Atlantic seaboard he loved—in order to retain what he could of his professional life, joining the big firm of Crowe & Dunlevy there.

If fear of semi-retirement may have been an unconscious contributor to the investigation's slowness, a more obvious one was Walsh's civil litigation background. In addition to pondering his decisions for a long time, "he would have people write a lot of memos about things, and do work that seemed kind of busywork, and peripheral to what we should be doing," says one former Iran-contra lawyer. "They were the dot-every-i, cross-every-t

school of litigation, where you have to protect against every possible eventuality and know every possible argument that could be made. But as a practical matter, a lot of it was a waste of time."

Critics of the independent counsel law have long complained that it is inherently unfair for the government to pursue a prosecution with the single-minded standards of a private litigator. A normal prosecutor, who operates in a universe where he must address a range of crimes, has built-in limitations on how far he can press a case. Practical decisions about relative costs and benefits—X more dollars spent on punishing white-collar crime mean X fewer dollars to spend on pursuing rapists, for example—are the essence of prosecutorial discretion. But Walsh, with an unlimited budget to pursue only one set of crimes, without making any judgments about the relative benefits of the pursuit, can pursue his targets with the luxuriant thoroughness of a blue-chip hired gun.

This is one of the points that Walsh's political enemies stress. And it must be said that he has given them ample rope with which to hang him, showing a certainty—especially where his budget is concerned—that borders on arrogance. If Washington has been too political in sweeping Iran-contra under the rug, the opposite can be said of Walsh: In some of his actions, he has not been political enough.

In a recent General Accounting Office report, Walsh was cited for receiving overgenerous reimbursements from the government for enjoying such private-sector frills as his room at the Watergate—including reimbursements for days he kept the room for his lawbooks and belongings but was not staying in Washington—and a routine use of first-class travel for his trips to Oklahoma City. Altogether, the report said, he had been compensated by at least \$44,000 more than the reimbursement rate he was entitled to. The report did not challenge Walsh's claim that he had acted in good faith in these violations; in most cases, it said, he had relied on rulings by the Administrative Office of the U.S. Courts, which nominally supervises the finances of independent counsels. And today, the government pays for neither extra nights at the Watergate nor for the difference between coach and first-class travel. (Walsh still flies first class, but says his frequent flier mileage covers the difference.)

He shrugs off criticism that his business expenses seem more in keeping with the regal standards of private lawyers than with what taxpayers can fairly expect to pay public servants. "The problem is that the Independent Counsel Act doesn't have any restrictions," says

Walsh. "And the legislative history seemed to leave it to the judgment of the independent counsel." In his case, his manner suggests, that judgment is unassailably trustworthy.

More troubling still was the revelation that Walsh's office had spent \$52,600 last December—before Bush's pardon of Weinberger—to perform a mock trial of the former defense secretary. Used to assess such things as the attitudes of the likely jury pool in a given trial setting, and what lines of argument that population is likely to find appealing, mock trials are common tools among private lawyers—but almost unknown among government prosecutors. Given that Walsh was already under fire for his indictments of Weinberger and for the amount of money his investigation had cost, the expenditure played into the hands of the critics who argued that he would do anything to nail his defendant.

When he is questioned about this, just a flash of the combative, thin-skinned Walsh is revealed: He says his critics made him do it. "From the time of the indictment, back in June, it seemed to me there's been a series of attacks on the office, on me, on [deputy independent counsel] Craig Gillen; and favorable statements about ex-secretary Weinberger . . . All of these are factors and present problems in selecting juries and in developing an effective case . . . The added problems caused by Senator Dole and those who've been criticizing us made it necessary," he concludes.

It was the Weinberger case, of course, that provided the most fateful example of Walsh's allergy to pragmatism. From the beginning, Walsh's adversaries had seized on the Weinberger case as a weapon. Given Weinberger's age (then 74), his long government service, and his original opposition to the Iran-contra dealings, it was easy for anyone not steeped in the facts of Walsh's investigation to see Weinberger as a sympathetic figure. When Walsh brought a revised indictment that included a reference to President Bush's presence at a crucial meeting and his support for the arms-for-hostages policy, and filed it only four days before the November election, he made it equally easy for others to question his motives.

While there was a detailed legal rationale for bringing the indictment, its timing revealed a political obliviousness that went beyond principle, and into the realm of deafness. It wasn't just that Walsh had failed to anticipate the furious publicity that would attend this indictment in the midst of a campaign. (Though according to associates, he was astonished by the controversy.) It was also a stark illustration that Walsh, sequestered inside his guarded office, had failed to understand

the denial that permeates America's understanding of Iran-contra. As Walsh was well aware, the Weinberger notes contained in the indictment didn't actually reveal anything new: Earlier evidence—from contemporaneous records by then-Secretary of State George Shultz, Poin-dexter, Bush aide Craig Fuller and others—had also undermined Bush's claims to have been "out of the loop" concerning the trading of arms for hostages. But Walsh didn't seem to know that his fellow Americans had never chosen to accept this fact—not until he presented it to them at a moment when George Bush was deeply unpopular for other reasons.

Walsh insists that even if he had understood that he was dropping a bombshell into that pool of willful ignorance, he would have indicted Weinberger that day anyway. (Other prosecutors, but not Lawrence Walsh, might debate whether holding up the indictment until after the election would have been a greater or a lesser sin than indicting in the midst of a campaign.)

But as it was, the timing of the indictment, and the legalistic explanations of it that emanated from the counsel's office, gave Bush his most crucial piece of political cover for the pardons of Christmas Eve.

By then, the abandonment of Walsh was complete. House Speaker Tom Foley and future Secretary of Defense Les Aspin, both members of the original joint committees, were sounded out in advance about whether they would raise a fuss if Weinberger were pardoned; both reportedly indicated that they would not object.

Walsh was left to argue, to a world uninterested in listening, that he had had a strong case against Weinberger; that he hadn't *wanted* to indict the man, but had no choice when faced with the evidence and Weinberger's adamant refusal to admit any wrongdoing.

It was finally obvious what a great gulf divided the legal narrative of Iran-contra, as it had built up over these years of investigation, and the fractured folk narrative that Washington had chosen to pretend was a thing of the past.

Mary Belcher, Walsh's spokesman, describes the day of the pardons with a curious choice of words. "It was sort of like a death in the family," she says. "There's so much to do, and the emotions follow later."

THERE IS LITTLE, NOW, TO KEEP IRAN-CONTRA from sliding entirely into the grave. George Bush has joined Ronald Reagan in retirement. None of the contenders to lead the Republican Party in the future has any connections at all to the case. And now that the White House has changed parties, none of the bit play-

ers is up for a job that is likely to revive the ghosts.

Walsh will write his final report—presumably, a report of Walshian care and comprehensiveness. It seems likely to be the taxpayers' best value for their money, for Walsh did develop a far more detailed and complete understanding of Iran-contra than posterity would receive without his efforts.

But the truth is that when Walsh finally goes home, he will leave a perceived loser. What was the final fruit of all that effort?

"The most important [result] is the message to senior national security officials that they can't take policy making off the books, that they have to obey the Constitution and the laws, that they have to answer to Congress," says Tom Blanton, executive director of the National Security Archive, a nonpartisan research institute in Washington. "That message, I think, hasn't been so successfully sent by the Walsh process. Because it's taken so long; because so many people have gotten away with slaps on the wrist; and because of Bush's pardons, which send a larger message: Take care of the president, and we'll take care of you . . . Walsh can write as hard-hitting a final report as he wants, but the coverup worked. The people who lied have gone free."

And even if he won some of his battles, Walsh might inadvertently have lost the war. For the law that created the independent counsel has expired, pending another congressional effort at renewal this spring; and Walsh has become a poster child for those who would like to see it buried permanently.

Like so many facts about his six-year ordeal, this too is not precisely Lawrence Walsh's fault. Like everything else, it is a byproduct of the fateful marriage between the world's most political case and the world's most methodical lawyer.

If Walsh has been bruised by the experience, he bears it in his customary solitude. "I think he's been brutalized publicly, and I don't think he deserves it," says Reid Weingarten. "My sense was he's a stoic, but that it hurt him."

Stoically, Walsh insists that his investigation has been a success. "A personal success, I'm not so sure," he admits with his apologetic laugh. "But a success in the interest of the government, yes, because it has shown that deterrence by criminal prosecution can be made effective in the national security area."

If this stuff, gray man could ever speak in the voice of the poet, the rime of this ancient mariner might sound more like that of Coleridge:

*Since then, at an uncertain hour,
That agony returns:
And till my ghastly tale is told,
This heart within me burns. ■*

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