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Report to Congressional Requesters

June 1988

# RESEARCH ANIMALS

## Federal Costs for Care of the Silver Spring Monkeys



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**Human Resources Division**

B-230545

June 3, 1988

The Honorable Robert C. Smith  
House of RepresentativesThe Honorable Charlie Rose  
House of RepresentativesThe Honorable Tom Lantos  
House of Representatives

As requested by your offices, we obtained information about federal costs associated with the housing, care, and transportation of a group of 16 monkeys, known as the "Silver Spring Monkeys." These monkeys were used in research conducted in Silver Spring, Maryland, by the Institute for Behavioral Research (IBR) under a National Institutes of Health (NIH) grant originally awarded in the early 1970's.

NIH became custodian of the monkeys in October 1981, when local police, acting under a court order, took the monkeys from IBR and transferred them to NIH's facility in Poolesville, Maryland. The order was issued pursuant to animal cruelty charges filed against IBR's chief investigator. NIH terminated its grant to IBR on August 30, 1982, after its investigation found that IBR had not provided adequate veterinary care as required under the terms of the NIH grant. NIH later transferred the monkeys to the Delta Regional Primate Research Center of Tulane University. Subsequently, five were transferred to the San Diego Zoo.

Specifically, you requested information on (1) federal costs for transportation to and care of the monkeys at NIH's Poolesville facility; the Delta Regional Primate Research Center in Covington, Louisiana; and the San Diego Zoo in San Diego, California; (2) federal costs for lawsuits and public relations related to the monkeys; and (3) arrangements for reimbursement from IBR and sources of private funding for costs in caring for the monkeys.

As of February 29, 1988, the federal government's costs involving the monkeys were at least \$105,084.<sup>1</sup> This represents costs for care, security, and administrative expenses (\$93,404); transportation (\$2,675); lawsuits (\$21,600); and public relations (\$427) totaling \$118,106, less

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<sup>1</sup>An exact account of the total federal costs relating to the monkeys was not available because records of certain costs, including those for lawsuits, NIH public relations, and Department of Agriculture facility inspections, were not maintained. Government officials provided estimates only for costs related to lawsuits.

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reimbursements of \$13,022 from IBR. IBR reimbursements covered only a daily fee for housing and feeding the monkeys while they were at Delta. According to an NIH official, IBR has agreed to reimburse NIH for certain other costs at Delta. NIH assumed the costs for care of the monkeys during the period they were at NIH's Poolesville facility. Costs for transportation and care of the five monkeys transferred to the San Diego Zoo were covered with funds of \$42,750 provided by private sources. (Costs involving the monkeys are discussed in more detail on pp. 4-6.)

You also wanted to know (1) whether any federal funds were involved in a proposal to build a new facility for the monkeys at Delta, and (2) whether the Department of Agriculture, which is responsible under the Animal Welfare Act for inspecting research facilities, inspected IBR's facility before the monkeys were seized by local police.

The deputy director of NIH advised us that no special facilities were built at Delta and no federal funds were involved in any proposal to build such facilities.

The Department of Agriculture's Animal and Plant Health Inspection Service is responsible for inspecting research facilities to insure the humane care and treatment of animals. According to officials of the Service, IBR's facility would have been inspected at least once a year before the seizure of the monkeys in 1981. However, because the Service does not keep records that are older than 3 years, they could not provide the dates, cost, or results of those inspections.

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## Background

Under the NIH grant, IBR (now named the Institutes for Behavior Resources, Inc., and located in Washington, D.C.) was studying the capacity of monkeys to learn to use a limb after nerves affecting feeling in the limb had been severed. This was done in an attempt to discover benefits for the rehabilitation of human patients suffering from a serious neurological injury such as a stroke. Nine of the 16 monkeys had undergone surgery that severed nerves in their necks, permanently eliminating feeling in one forelimb but still allowing movement. The monkeys were to be euthanized and autopsied 1 year after the surgery.

In September 1981, the Assistant State's Attorney for Montgomery County Maryland filed criminal animal cruelty charges against IBR's chief investigator based on complaints concerning food, sanitation, and veterinary care for the monkeys made by animal rights advocates. Animal rights advocates also filed civil lawsuits against IBR, NIH, and the

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Secretary of Agriculture to, among other things, be designated as guardians of the monkeys and to require the Secretary to enforce the federal Animal Welfare Act (7 U.S.C. 2131) against the defendants.

On October 9, 1981, the Circuit Court for Montgomery County issued an order naming NIH as temporary custodian of the monkeys and instructing that the monkeys be transferred to NIH's Poolesville facility pending completion of the criminal proceedings. NIH took custody of the monkeys on October 14, 1981. Although NIH became their custodian, under applicable grant regulations the monkeys remained the property of IBR.

On December 2, 1981, the District Court for Montgomery County convicted the IBR chief investigator on six counts of animal cruelty. Five of the six counts were later overturned by the Circuit Court for Montgomery County. On August 10, 1983, the Court of Appeals of Maryland overturned the remaining criminal conviction of IBR's chief investigator ruling that Maryland's animal cruelty law did not apply to a facility conducting federal research. However, the monkeys remained in NIH's custody pending the outcome of the custody lawsuit.

Following the resolution of the criminal action, the U.S. Court of Appeals for the Fourth Circuit considered the remaining civil lawsuit, which concerned the custody of the monkeys. The court affirmed a district court's dismissal of the case agreeing that private individuals lack standing to bring suit under the Animal Welfare Act. The appeals court stated that the Secretary of Agriculture, under the act has sole responsibility for the regulation, inspection, and sanction of medical facilities using animals in research. This includes the authority to remove an animal found to be suffering through the noncompliance of a laboratory if the animal is no longer required to carry out the research. On April 6, 1987, the U.S. Supreme Court declined to review the appellate decision.

One of the 16 monkeys at Poolesville was euthanized on May 21, 1982. According to NIH officials, this was done with permission of the court and the concurrence of IBR, because the monkey had developed paralysis in its hind quarters. On June 24, 1986, NIH transferred the remaining 15 monkeys to the Delta Regional Primate Research Center in an attempt to resocialize them so that they would not have to be maintained permanently in individual cages. NIH officials also stated that neither the court nor IBR objected to the transfer. A May 1987 NIH report, The Silver Spring Monkeys: Status and Prospects, stated that the monkeys had been housed individually since they were young and, consequently, were

likely to become aggressive upon direct encounter with other monkeys. NIH facilities were not considered suitable for resocialization purposes. While at the Delta Center, 1 of the 15 monkeys died of pneumonia complicated by a lung infection.

On September 1, 1987, five of the monkeys that had not had surgery were transferred to the San Diego Zoo in order to complete the resocialization process begun at the Delta Center. According to NIH's May 1987 report, eight monkeys that had received surgery and one other monkey remained at the Delta Center. The monkeys that had been operated on were questionable candidates for resocialization because they were prone to injure themselves accidentally due to the lack of sensation in their forelimbs, increased fragility of their skin, and the brittleness of their bones.

According to an NIH official, the zoo did not take the other monkey that had not had surgery because it was a different sex and species from the other five monkeys that were transferred to the zoo.

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## Scope and Methodology

We obtained, where available, information on federal costs for the Silver Spring Monkeys from NIH; the Departments of Health and Human Services (HHS), Agriculture, and Justice; the Delta Center; and the San Diego Zoo. Where necessary, we interviewed officials of the various organizations to obtain clarification or explanations of certain cost items. We reviewed pertinent laws, regulations, legal records, reports, and other publications to determine the responsibilities and obligations of the parties involved. To determine costs related to lawsuits concerning the monkeys, we relied on estimates of attorneys' time and salary provided by HHS and Department of Justice officials because separate records were not maintained that accounted for costs related to these lawsuits.

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## Federal Costs

Table 1 shows the composition of the government's \$105,084 cost, as of February 29, 1988, for care of the Silver Spring Monkeys.

**Table 1: Approximate Federal Costs Related to the Silver Spring Monkeys as of February 29, 1988**

Description	Amount
<b>Costs for care:</b>	
Poolesville	\$51,860
Delta Regional Primate Research Center	41,544
<b>Subtotal costs for care</b>	<b>93,404</b>
Transportation to Delta	2,675
Public relations at Delta	427
<b>Lawsuit costs(estimated):</b>	
HHS's Office of General Counsel	11,600
U.S. Attorney's Office, Department of Justice	10,000
<b>Total federal costs</b>	<b>118,106</b>
Less IBR reimbursements to NIH	-13,022
<b>Net federal costs</b>	<b>\$105,084</b>

## Animal Care Costs

The \$51,860 cost incurred at Poolesville represents a charge of \$2 a day for each monkey during the approximate 57-month period from October 1981 to June 1986. The daily fee covered costs for utilities and facility maintenance as well as costs for veterinary care, animal care, food, caging, and security. The costs of \$41,544 for the monkeys at Delta consisted of \$29,623 for care and maintenance, \$10,119 for security, and \$1,802 for administrative costs and miscellaneous supplies.

- Care and maintenance costs of \$29,623 included charges for shelter and food (based on a daily rate of \$1.82 per monkey), food supplements, clinical laboratory services, an autopsy, pathologist's services, and medical supplies.
- Security costs of \$10,119 consisted of salary and overtime for security guards from Tulane University's main campus in New Orleans (\$7,055), security from the local sheriff's office (\$2,920), and costs for private security (\$144). The security measures were taken, according to a Delta official, because the center had no security and was concerned with protest demonstrations regarding the monkeys.
- Administrative expenses of \$1,802 consisted of consultant fees (\$1,200) paid to primate veterinary clinicians, a primate behaviorist, and a neurologist for their advice on the center's efforts to resocialize and rehabilitate the monkeys; attorney's fees (\$150); long distance telephone calls (\$236); xerox, mail, and travel costs (\$160); and sundry supplies (\$56).

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The monkeys were transported to the Delta Center by government vehicles. The \$2,675 transfer costs included drivers' salaries, including overtime and per diem (\$2,190), costs for the use of vehicles (\$167), and gasoline (\$318).

The \$427 for public relations costs were incurred for a press conference and responses to public inquiries concerning the monkeys.

An estimate of NIH public relations expenses was not available. NIH officials stated that

"because no records are kept regarding the time [they] devoted to . . . providing oral and written responses to members of Congress, animal rights groups, the general public, and other federal officials regarding the . . . Silver Spring monkeys . . . it is impossible to provide even an approximation [of such costs] . . ."

The NIH officials said that virtually all of these activities were handled during the normal working day, no new staff were hired, and no staff were assigned overtime duties. Regarding the five monkeys transferred to the San Diego Zoo, NIH officials told us that NIH did not incur any costs for transporting the monkeys to or caring for them at the San Diego Zoo. A zoo official told us that these costs were paid for by private donations. Records provided to us by the San Diego Zoo indicate that as of January 1988, several universities and pharmaceutical companies had provided \$42,750 for support of the monkeys. According to zoo officials, \$29,000 of these funds was donated by pharmaceutical companies specifically to support a research fellowship for resocialization of the monkeys; the remaining \$13,750 was donated by various universities for transportation and other support expenses. Zoo officials also said that the zoo used its own funds for food, animal keepers, and zoo overhead expenses for the monkeys.

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## Lawsuits

HHS's Office of General Counsel, working with the Department of Justice's Office of the U.S. Attorney, dealt with lawsuits concerning the monkeys in which NIH was named. Because neither office kept a record of the costs incurred for their work on the lawsuits, we sought estimates or other indications of costs from each office. Based on discussions with the HHS's Office of General Counsel attorney who handled the case, we estimate that about \$11,600 in salary and travel was spent by that office on lawsuits relating to the monkeys. This attorney said that no

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overtime or special staffing was required. An official of the U.S. Attorney's Office told us that about \$10,000 in salary (about 250 hours) was spent by office attorneys in dealing with these lawsuits.

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## Reimbursement Arrangements

NIH officials told us that NIH has not sought private funding for the monkeys. In a July 21, 1987, letter to the San Diego Zoo, NIH stated that in the event of a shortfall of private funds for the monkeys it would assist in finding other sources of funding. However, the zoo has not asked NIH for help in finding such sources, according to an NIH official. This same official advised us that biomedical societies have verbally told NIH officials that the societies would help pay IBR's expenses for supporting the monkeys. Also, the official said that NIH has not sought reimbursement for its costs in housing the monkeys at Poolesville because it considered its custodial role a public service that would last only briefly pending settlement of the lawsuits.

As custodians for the monkeys, NIH agreed to reimburse the Delta Center for its costs, which would then be charged to IBR. However, NIH officials said that, as of April 30, 1988, NIH and IBR had not reached agreement concerning the amount of Delta's costs to be reimbursed NIH and future disposition of the monkeys. IBR had acknowledged responsibility to reimburse NIH for only those costs relating to the standard daily charge of \$1.82 for each monkey. According to NIH officials, these issues were not resolved at the time the monkeys were transferred to the Delta Center because of uncertainty regarding (1) the extent of future costs and (2) the outcome of the lawsuits, which were then pending against NIH and IBR. An NIH official told us that NIH assembled an expert panel in March 1988 to make recommendations on the disposition of the monkeys. This official said that NIH waited for the panel's report before holding cost negotiations with IBR. The panel included experts from the fields of neuroscience, animal rehabilitation, and veterinary medicine. An NIH official advised us that the panel released its report on May 9, 1988, and on May 11, NIH and IBR agreed that IBR would reimburse NIH for care and maintenance costs at Delta. IBR will not, however, pay for security and administrative expenses at Delta. Because our work covered costs through February 29, 1988, costs associated with the panel are not included in this report.

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As requested by your offices, we did not obtain comments on this report. However, we discussed the results of our work with officials of NIH and HHS's Office of General Counsel and considered their comments in preparing this report. As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies to the Secretary of HHS, IBR, and other interested parties. We will also make copies available to others on request.

*Janet L. Shikles*

Janet L. Shikles  
Associate Director

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