

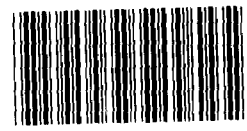
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REPORT BY THE U.S.

General Accounting Office

Information On Three Investigations By The Department Of Justice Into Navy Shipbuilding Claims

Newport News Shipbuilding and Dry Dock Company, Lockheed Shipbuilding and Construction Company, and the Electric Boat Division of General Dynamics submitted contract price adjustment claims to the Navy between 1968 and 1976 to increase contract costs for various ships by about \$1.8 billion. Navy officials alleged that parts of the claims contained false or fraudulent statements and referred these allegations to Justice. Justice investigated the claims with assistance from the Navy between 1975 and 1983. In all three cases, Justice declined to prosecute for various reasons such as adequate legal defenses and insufficient evidence. Because of new allegations, in July 1984 Justice reopened its Electric Boat investigation, which is currently ongoing.



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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

B-216322

The Honorable William Proxmire
Vice Chairman, Subcommittee on Economics,
Resources, Competitiveness,
and Security Economics
Joint Economic Committee

Dear Mr. Vice Chairman:

This report responds to your letter dated July 30, 1984, requesting that we review the Department of Justice's management of three investigations into alleged false shipbuilding contract price adjustment claims. The investigations concerned claims by three shipbuilding companies: Newport News Shipbuilding and Dry Dock Company, Lockheed Shipbuilding and Construction Company, and the Electric Boat Division of General Dynamics. The three submitted claims to the Navy Department between 1968 and 1976 to increase contract costs for various ships by about \$1.8 billion. Navy officials reviewed the claims and the Navy settled them for about \$492 million at various times between May 1975 and October 1978. During their review of the claims, Navy officials alleged that parts of the claims contained false or fraudulent statements. The Navy referred these allegations to the Justice Department in December 1974 and February 1978 and Justice investigated the claims with assistance from the Navy between 1975 and 1983. The Justice Department concluded the investigation of Newport News in 1983, Lockheed in 1979, and Electric Boat in 1981 and, in all three cases, declined to prosecute for various reasons such as adequate legal defenses and insufficient evidence.¹

You asked us to provide detailed information about the investigations, including dates of key Justice Department actions and decisions and the number, experience, and supervision of staff that Justice assigned to the cases. To obtain the information you requested, we conducted our review primarily at the Department of Justice's Criminal Division and Federal Bureau of Investigation (FBI) in Washington, D.C., and the U.S. Attorney's office for the eastern district of Virginia

¹The Electric Boat investigation was reopened in July 1984 because of new allegations and evidence and it is currently ongoing.

in Alexandria, Virginia. Because Justice did not have documentation we needed to fully respond to your request, we relied largely on interviews with key Justice, FBI, and Navy officials for the information we obtained. A detailed discussion of our review's objectives, scope, and methodology is included in appendix I. The three investigations are summarized below and detailed information for each is included in appendixes II, III, and IV.

NEWPORT NEWS SHIPBUILDING AND
DRY DOCK COMPANY

The Justice Department investigated alleged false claims by the Newport News Shipbuilding and Dry Dock Company between February 1978, when the Navy Department referred allegations of fraudulent claims to Justice, and August 1983, when the Assistant Attorney General, Criminal Division, declined prosecution. During those 66 months, daily control of the investigation shifted from the Richmond, Virginia, office to the Alexandria, Virginia, office of the U.S. Attorney for the eastern district of Virginia² and then to the Fraud Section of Justice's Criminal Division. From 1 to 15 attorneys and/or investigators were assigned to the investigation at any given time, except during the first 3 months of 1982 when no one was assigned because the attorney chosen to continue the investigation was not available until April. The staff included seven different Criminal Division attorneys, three U.S. attorneys and three assistant U.S. attorneys, two Navy attorneys, seven FBI agents, and three Naval Investigative Service agents.

The investigative strategy evolved from one of looking for false or fraudulent statements in the claims to one of looking for an overall conspiracy to defraud the U.S. government. As daily control of the investigation shifted from Richmond to Alexandria, the Richmond assistant U.S. attorney recommended in October 1980 that the investigation cease and that prosecution be declined. The U.S. attorney rejected the recommendation and continued the investigation using Alexandria assistant U.S. attorneys. In November 1981, the Alexandria attorneys recommended that the investigation continue until indictments were secured. In early 1982, the investigation shifted to Justice's Fraud Section because the U.S. attorney said she did not have sufficient staff to continue this investigation and other ongoing investigations. A Criminal Division attorney also recommended that the Fraud Section continue the investigation, focusing on future indictments for conspiracy to obstruct the

²The U.S. Attorney for the eastern district of Virginia has offices in Alexandria, Norfolk, and Richmond.

claims process. The Fraud Section Chief reviewed and discussed the investigative results with the Alexandria and Criminal Division attorneys and concluded that the investigation should cease and that prosecution should be declined. (See app. II, pp. 8 and 9.) The investigation ended and prosecution was declined on August 30, 1983.

LOCKHEED SHIPBUILDING AND
CONSTRUCTION COMPANY

Justice investigated alleged false claims by the Lockheed Shipbuilding and Construction Company for 58 months from December 11, 1974, when the Navy Department referred allegations to Justice, to September 27, 1979, when prosecution was declined. The investigation was staffed by a trial attorney in the Fraud Section and up to eight FBI agents. The FBI agents interviewed Lockheed and Navy employees and reviewed documents and accounting records during the investigation's first 33 months. During the next 12 months, FBI agents and the Fraud Section attorney agreed not to prosecute on certain items that had been investigated and conducted grand jury sessions on another item. During the remaining 13 months, the attorney and an FBI agent reviewed the evidence and agreed not to prosecute on the remaining item. (See app. III, p. 24.)

ELECTRIC BOAT DIVISION
OF GENERAL DYNAMICS

Justice investigated alleged fraudulent shipbuilding claims by the Electric Boat Division of General Dynamics between February 13, 1978, when the Navy Department referred allegations to Justice, and December 18, 1981, when prosecution was declined. The number of attorneys and investigators assigned to the 47-month investigation ranged at any one time from 2 to 12 with totals of 7 Justice attorneys, 1 Navy attorney, 9 FBI agents, and 1 Naval Investigative Service agent. During the investigation, two grand juries were used to subpoena records and question witnesses. In July 1984, about 3 years after the investigation closed, the Justice Department reopened its investigation of Electric Boat's claims because of new allegations and additional evidence. So as not to jeopardize the ongoing investigation, we limited our review of the closed investigation to having Justice provide us with general information about the case, which we have summarized in appendix IV.

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We obtained the views of directly responsible officials and incorporated them in the report where appropriate. We trust the information provided will be useful to your continuing oversight efforts. As arranged with your office, unless you

publicly announce the contents of the report earlier, we plan no further distribution until 30 days from the date of this report. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

W. J. Anderson

William J. Anderson
Director

OBJECTIVES, SCOPE, AND METHODOLOGY

Our review was conducted at the request of Senator William Proxmire, Vice Chairman of the Subcommittee on Economics, Resources, Competitiveness, and Security Economics, Joint Economic Committee. The Vice Chairman requested information concerning three Department of Justice investigations into alleged false or fraudulent contract price adjustment claims. Three companies--the Newport News Shipbuilding and Dry Dock Company, the Lockheed Shipbuilding and Construction Company, and the Electric Boat Division of General Dynamics--submitted claims for cost increases to the Navy Department. Certain of these claims were later alleged by Navy officials and others to be false or fraudulent. Specifically, we were asked to determine:

- the dates that the allegations were referred to Justice;
- the manner in which the referrals were reviewed;
- the dates that the formal investigations began;
- the number of attorneys and FBI agents assigned to the investigations and whether they worked full-time or part-time on the investigations;
- the attorneys' and FBI agents' prior work experience and how much turnover occurred in these positions during the investigations;
- whether primary responsibility for the investigations was in the Department of Justice's Criminal Division or a U.S. attorney's office;
- the dates that grand juries¹ were convened and actions taken;
- the dates of any transfers of the investigations between the Criminal Division and a U.S. attorney's office;
- the dates of any memorandums from attorneys assigned to the investigations which recommended prosecutorial actions;
- the dates of final prosecutorial decisions; and

¹Federal grand juries were used in these investigations to subpoena records from the contractors and interview witnesses.

--the statute of limitations² dates for the alleged fraudulent claims.

In addition, we were asked to review the Justice Department's management of these investigations and provide explanations as to why the investigations took as long as they did to complete.

Our review to obtain the requested information was conducted during the period August 1984 to May 1985. We reviewed all available Criminal Division and FBI records, including: internal memorandums, status reports, FBI interview records and other investigative reports, and other summary reports that discussed possible prosecutive actions. In addition, we selected and interviewed key responsible officials including: 3 Deputy Assistant Attorneys General; the Chief, Fraud Section, and 2 other Fraud Section attorneys; 1 current and 1 former U.S. attorney; 4 current and 1 former assistant U.S. attorneys; 1 current and 1 former Navy attorney; 2 former Fraud Section attorneys; 5 FBI agents; and 1 current and 1 former Naval Investigative Service agent.

DATA LIMITATIONS AND DELAYS

We were requested to provide information to the Vice Chairman by the end of September 1984. We formally requested access to Justice records on August 14, 1984. The Chief of the Fraud Section responded that Justice would provide us with the requested information in summary form and that we would not have access at the time to Justice files.

We received the summary information from the Fraud Section Chief on October 1, 1984. We then requested access to records and attorneys in order to verify the information provided and obtain more complete information. While awaiting access to records, we prepared a chart summarizing information concerning the Electric Boat investigation that was provided to us by the Fraud Section. (See pp. 35 to 38.) The Vice Chairman presented this chart in hearings on October 31, 1984. We were provided with access to Fraud Section records concerning the Newport News and Lockheed investigations and were allowed to interview Fraud Section attorneys in mid-November. Subsequently, we were granted access to interview U.S. attorneys and review FBI files concerning these two investigations in January 1985. We were then permitted to interview FBI agents who worked on the investigations in March 1985.

²A statute of limitations is a law assigning a certain time limit after which certain offenses cannot be prosecuted.

The Fraud Section Chief and an FBI supervisor told us that the records and memorandums we reviewed were all the records available to the Criminal Division and the FBI, except for grand jury material. Rule 6(e)(2) of the Federal Rules of Criminal Procedure generally prohibits Justice from disclosing matters occurring before a grand jury. In addition, we did not review case records or interview attorneys and agents concerning the Electric Boat investigation because it had been reactivated.

The records and memorandums we collected did not answer all the questions raised in the Vice Chairman's request. The FBI showed us its investigative files and internal memorandums that answered most of the Vice Chairman's questions concerning the FBI's participation in the investigation.³ The Fraud Section Chief told us that Justice did not maintain records or memorandums that would show when and how staff were assigned and used, how long the staff worked on any particular investigation or investigative task, what kinds of direction and guidance were provided to the staff, how often supervisory visits were made, and what was discussed and decided at various meetings. Other attorneys we interviewed confirmed that these records are generally not maintained. The Chief told us that the Fraud Section had relied heavily on the memories of the people involved in the investigations when it provided us with the summary information on October 1, 1984. Similarly, we had to rely on our interviews of the attorneys and agents for much of the information we collected.

³An FBI supervisory special agent told us that the FBI's Time Utilization and Record Keeping System only accounted for agents' time spent investigating specific areas, such as fraud against the government, prior to about 1978 and for time spent on investigations related to specific agencies, such as the Department of Defense, since then. He said that the amount of time charged to individual shipbuilding cases, therefore, could not be determined.

MANAGEMENT OF NEWPORT NEWS
SHIPBUILDING AND DRY DOCK COMPANY
INVESTIGATION

The Newport News Shipbuilding and Dry Dock Company submitted a contract adjustment claim to the Navy in March 1976 seeking \$894 million for cost overruns on the construction of 14 nuclear-powered vessels--7 submarines, 5 cruisers, and 2 aircraft carriers. The 64-volume submission contained 264 claims for overruns on separate items including such items as air control systems, openings in the ships' hulls, and costs caused by the Navy recruiting company employees. The Navy established a Claims Settlement Board to evaluate each of the 264 claim items. The Navy settled the claims on 2 of the 5 cruisers for about \$44 million in February 1977 and on the remaining 12 ships for about \$164 million in October 1978.

THE INVESTIGATION

Testimony presented by Admiral H.G. Rickover and a former Newport News employee before the Subcommittee on Priorities and Economy in Government, Joint Economic Committee, on June 7, 1976, suggested that the Newport News claims may have been based on false or fraudulent representations. On June 11, 1976, Senator William Proxmire requested that the Navy investigate this matter to determine whether there was substantial evidence that the claims were based on fraudulent representations. On June 24, 1976, the Secretary of the Navy responded to Senator Proxmire that the Navy believed its evaluation of the claims would uncover any fraud that existed and that any indication of fraud would be referred to the Department of Justice. By letter dated July 29, 1976, Senator Proxmire informed the Attorney General that Admiral Rickover had testified that the claims were greatly exaggerated and unsupported and that a former Newport News employee had testified that at least part of the claims were prepared with exaggerated, unsupported, or inaccurate figures, and that this was accomplished at the direction of or with the knowledge of the company. He requested that the Attorney General designate a team of Justice investigators to review the transcripts of the hearings and other evidence and to interview individuals who may have had additional information to determine if the claims were based on fraud.

On August 16, 1976, the Assistant Attorney General, Criminal Division, responded to Senator Proxmire that a Fraud Section attorney had been assigned to evaluate the inquiry so the Department could better pursue the matter to a logical conclusion, including possible FBI involvement or grand jury exploration. This attorney told us he was assigned to monitor the Navy's analysis and technical review of the claims and report the results back to his Fraud Section supervisor. The

Chief of the Fraud Section at that time told us that he could not recall why Justice decided to monitor the Navy's claims analysis instead of immediately starting its own investigation. He said he now assumes that the decision to monitor the claims analysis process was predicated at that time on a lack of specific indications of fraud in the referral coupled with the belief that the claims analysis process would presumably surface any possible wrongdoing.

During its claims analysis and settlement negotiations, the Navy Claims Settlement Board identified 47 of the 264 claim items as potentially fraudulent. By letter dated February 6, 1978, the Navy's General Counsel referred the matter to the Assistant Attorney General, Criminal Division, for investigation.

The former Chief of the Fraud Section told us that his recollection was that Justice received three shipbuilding referrals from the Navy at or about the same time, including one on Newport News, and that upon review it was apparent that all three referrals failed to specify the nature of the suspected fraud and where in the voluminous claims such fraud could be found. An assistant U.S. attorney told us, however, that by the time the U.S. attorney's office received the referral, the Navy had provided a detailed analysis of the claims that either indicated which parts of the claims were false or provided leads as to where in the claims the fraudulent statements could be found. In any case, the former Chief said that Justice ultimately agreed to accept the cases because of public concern about fraudulent shipbuilding claims, the Navy's request that Justice not send the referrals back to them for further development, and a commitment by the Navy's General Counsel that he would provide supplemental resources to assist in staffing Justice's inquiry.

An investigative task force was established in April 1978 and the investigation began in August 1978. Attorneys involved prior to August told us that they and FBI agents spent their time learning about shipbuilding procurement, reviewing the claim items and Navy's analysis of the items, interviewing Navy officials, assigning staff, and conducting administrative work in preparation for a grand jury investigation. In August 1978, the U.S. Attorney for the eastern district of Virginia assigned daily operation of the investigation to an assistant U.S. attorney in Richmond, Virginia, and the first phase, hereinafter referred to as the Richmond phase, was started.

The Richmond phase continued until October 1980 when the assistant U.S. attorney who was directing the investigation sent an overall prosecutive report to the U.S. attorney. During this

phase, witnesses were interviewed in Norfolk and Alexandria, Virginia, and other places as needed; documents were reviewed in a depository established by the Newport News Company; and witnesses testified before two grand juries in Richmond. The FBI started interviewing witnesses and reviewing documents in April 1978 and continued until April 1980. The first grand jury was impaneled on October 18, 1978. Two of the attorneys involved in this phase told us that most investigative work ended in November 1979 when the first grand jury held its last session. After that session, the investigative staff prepared prosecutive reports for review by the U.S. attorney. The reports recommended that prosecution be declined on certain claim items.

Meetings were held with the U.S. attorney from December 1979 through the spring of 1980 and it was decided that a limited inquiry should continue on those items that offered some prosecutorial potential. A second grand jury held sessions through June 1980. A Richmond assistant U.S. attorney sent an overall prosecutive report to the U.S. attorney on October 1, 1980, recommending that the investigation close without indictment. It was reported in a November 1981 status report and February 1983 prosecution memorandum that the two Navy attorneys who were assigned to the investigation had disagreed with this recommendation. Both attorneys told us, however, that they had agreed with the recommendation to decline prosecution.

The U.S. attorney and assistant U.S. attorneys in Alexandria reviewed each claim item that was addressed in the Richmond prosecutive report, and the U.S. attorney rejected the declination recommendation as being "premature, absent the kind of thorough investigation warranted by the seriousness of the Navy's allegations." The investigation that followed, referred to as the Alexandria phase, lasted until November 1981 and concentrated on a Ventilation Control Air System claim item. A third grand jury held sessions from January through April 1981 of this phase.

One of the Alexandria assistant U.S. attorneys who conducted this part of the investigation told us that they could have asked the grand jury for an indictment on this one item but decided not to because it was a relatively small claim of about \$1 million and they believed they had uncovered a methodology used by Newport News in preparing the preliminary claim drafts that, if found in other claim items, would enable them to prove an overall conspiracy to defraud the U.S. government.

The Alexandria attorneys told us that, after the last grand jury sessions in April 1981, the remainder of the Alexandria phase consisted of a review of the claims themselves to determine if any had methodologies similar to the Ventilation

Control Air System claim. They said that claim items with similar methodologies were identified but that the U.S. attorney's office did not have sufficient staff to investigate them along with all the other priority cases being handled at that time. This phase ended in November 1981 with a status report by the Alexandria assistant U.S. attorneys along with a Criminal Division attorney which recommended that the investigation continue into the air control and eight other claim items in an effort to demonstrate the existence of an overall conspiracy to defraud the United States.

In January 1982, representatives from the U.S. attorney's office and Criminal Division met to discuss the status and future of the investigation. The U.S. attorney told us that the U.S. attorney's office was responsible concurrently for prosecuting an indictment against another Navy shipbuilding contractor and did not have enough resources to handle both that prosecution and the Newport News investigation. The U.S. attorney said that the Assistant Attorney General, Criminal Division, was asked to decide which case would be handled by the U.S. attorney and which by the Criminal Division. A March 26, 1982, letter from the U.S. attorney stated that, on March 11, 1982, a Deputy Assistant Attorney General, Criminal Division, informed the U.S. attorney that the Criminal Division had assumed full responsibility for the Newport News investigation.

In April 1982, a Criminal Division attorney was assigned to review the Newport News investigation and recommend to the Fraud Section whether or not the investigation should continue. The acting Chief of the Fraud Section at that time told us that it took until April to assign this attorney because it had been determined that a minimum of two attorneys would be needed to review the investigative files and one of these attorneys would not be available until that time. In fact, only one attorney became available and he, with assistance from an FBI agent, interviewed Newport News employees and reviewed the investigative files, including grand jury material, prior prosecutive reports, and claim documents. On August 5, 1982, the attorney recommended to the Chief of the Fraud Section that the investigation continue and that it concentrate on looking for an overall conspiracy to obstruct the claims process.

After the August recommendation, the Fraud Section Chief assigned one of the Section's branch chiefs to supervise an expanded review of the investigation. The branch chief assigned the Criminal Division attorney who had made the August recommendation to "revitalize the investigation." The branch chief told us that the initial instructions given to him by the Fraud Section Chief were that additional people would be assigned and the investigation would continue. The Criminal Division attorney submitted a September 24, 1982, work plan to

the Fraud Section Chief outlining how the investigation would continue during October and November 1982.

The Fraud Section Chief and a branch chief instructed the Criminal Division attorney not to follow the September 24 work plan. Instead, the Criminal Division attorney told us that on September 28 the Chief requested that he and the branch chief expand the previous review into certain claim items in order to determine whether the investigation should continue. The Chief told us that he was not convinced that the investigation should continue. During October and November 1982, the three attorneys met four times concerning the investigation. During the last meeting on November 9, 1982, the Criminal Division attorney was advised by the Fraud Section Chief that he would recommend that prosecution be declined. The Chief and branch chief told us that they decided not to continue the investigation after reviewing some of the evidence themselves along with the August 5, 1982, recommendation; prior prosecutive reports; and the Alexandria status report.

On November 17, 1982, the Criminal Division attorney sent a memorandum to the Chief which disagreed with the decision to decline and recommended that the investigation continue so that a final determination could be made on whether or not Newport News' claims constituted criminal offenses. The Fraud Section Chief told us he disagreed with the Criminal Division attorney and, in a memorandum dated February 25, 1983, the Chief recommended to the Assistant Attorney General, Criminal Division, that the investigation be terminated without prosecution because:

- only four of the claim items that had been reviewed appeared to contain false claims or false statements;
- none of these four was prosecutable because there were adequate legal defenses that made prosecution impossible;
- it would have been impossible to use a theory that there was an overall conspiracy to defraud because the theory was inconsistent with the evidence developed during the investigation; and
- given the low probability that a prosecutable case would emerge, additional investigatory resources were not justified.

The Fraud Section memorandum was stamped as received in the U.S. attorney's office on April 26, 1983. The U.S. attorney's office responded by sending the Assistant Attorney General a critique of the Fraud Section memorandum dated May 18, 1983. The critique disagreed with the Fraud Section recommendation.

It stated that, if necessary resources were made available to continue the investigation, a two-count indictment with a reasonably good chance of success could be quickly drafted charging Newport News with conspiracy to defraud the United States by (1) obtaining payment on any false, fictitious, or fraudulent claim and (2) impeding and impairing its lawful functions. The critique stated that it was no longer advisable to bring false claims counts on the individual items.

The Fraud Section Chief reviewed the critique and met with representatives of the U.S. attorney's office on August 18, 1983, to discuss their position. On the basis of the review and discussions at the meeting, the Chief reported to the Assistant Attorney General, Criminal Division, on August 23, 1983, that there was insufficient evidence to support conspiracy indictments. He again recommended that prosecution be declined and the investigation be terminated. On August 30, 1983, the Assistant Attorney General informed the FBI and Navy that prosecution was being declined.

STATUTE OF LIMITATIONS CONSIDERATIONS

The Fraud Section Chief wrote us on October 1, 1984, that the statute of limitations date was October 5, 1983, for criminal false claims, false statements, mail fraud, and conspiracy prosecution. This date was about 1 month after the final decision to decline, 4 months after the U.S. attorney's critique, 7 months after the Fraud Section's original recommendation to decline, 14 months after the Criminal Division attorney's recommendation to continue the investigation, and 23 months after the U.S. attorney's office's recommendation to continue the investigation. There appears to have been some disagreement, however, concerning the statute of limitations date provided to us. The U.S. attorney's critique states that the statute of limitations for false claims indictments probably ended on August 1, 1982. The critique also states that there were various theories that would have allowed them to argue that the statute of limitations for conspiracy indictments might have continued after October 5, 1983. The critique, however, did not elaborate on these theories.

According to the Chief of the Fraud Section, the statute of limitations did not play a major role in the investigatory decisions. He told us the investigation was terminated for the reasons stated in the February 25, 1983, memorandum (see p. 8) and not because of the statute of limitations date.

STAFFING AND SUPERVISION

In July 1976, a trial attorney from the Fraud Section was assigned to monitor the Navy's progress in analyzing and

reviewing the Newport News claims. This attorney told us he could not recall what portion of his time was spent on the Newport News matter. He said that he provided oral reports to the Chief and Deputy Chief but did not prepare a written record for the Fraud Section of his activities concerning Newport News. He also said that his Newport News duties ended when the U.S. attorney's office assumed control of the investigation.

In April 1978, after the Navy referred the matter to Justice, the U.S. Attorney for the eastern district of Virginia, who has offices in Alexandria, Norfolk, and Richmond, established a Fraud and Corruption Division to provide staff for the Newport News and other cases. A chronology written by the former head of the Fraud and Corruption Division stated that it was understood from the outset that the U.S. attorney's staff would be augmented by personnel from the Fraud Section and two Navy attorneys. The Fraud Section replaced its first attorney who had been monitoring the Navy's claims analysis with a second trial attorney part-time, and the Navy assigned two full-time attorneys who became special assistant U.S. attorneys. The U.S. attorney assigned an assistant U.S. attorney located in Richmond. The chronology states that the Richmond assistant was selected because of his demonstrated talent in handling complex civil litigation, but added that he had no substantial experience running major criminal investigations. It stated that his experience was thought to be offset by the extensive experience and demonstrated ability of the Fraud Section attorney in running complex fraud grand juries. The former head of the Fraud and Corruption Division told us that the U.S. Attorney's office had assumed that the Fraud Section attorney would be assigned full-time to help supervise the investigation and that staffing decisions were made on the basis of that assumption.

There seems to have been some confusion over the supervisory responsibilities of the U.S. attorney's office and Fraud Section during the investigation. The assistant U.S. attorneys involved during the Richmond phase and a former Fraud Section Chief told us that the Criminal Division maintained overall decision-making authority. The Chief of the Fraud Section and another Fraud Section attorney told us the U.S. attorney's office had decision-making authority and that the Fraud Section only provided staff and monitored overall progress until it took over the investigation in 1982.

The Richmond assistant U.S. attorney told us that the U.S. attorney had planned to assign the case to the top assistant U.S. attorney who had formerly been a Navy engineer; had successfully prosecuted a shipbuilding fraud case in Norfolk, Virginia; and had obtained an indictment against another shipbuilder. He also told us that this person resigned to enter

private practice before the Newport News investigation got started and that this caused the investigation to be delayed several months until the Richmond assistant U.S. attorney was assigned in August 1978. Between March and September 1978, the FBI and Naval Investigative Service assigned eight agents to the investigation.

The Richmond phase of the investigation was conducted between August 1978 and late 1980 by a team made up at any one time of three to seven attorneys and two to eight investigators. During this phase, the Fraud Section replaced its second attorney with another trial attorney. The second attorney told us he worked about 50 percent of the time on specific Newport News claim items and was replaced because he was assigned other priority cases. The third attorney said she worked about 85 percent of the time on Newport News, filling in on specific claim items where needed by the other attorneys.

Overall supervision of the investigation's daily operations was to be performed by the Chief of the U.S. attorney's Fraud and Corruption Division in Alexandria. This attorney told us that he did not substantially involve himself in the investigation until late in 1980 when it became apparent that the Richmond team would recommend that prosecution be declined. He explained that, before that time, he had a full case load of his own and that memorandums and phone calls from the Richmond attorney indicated that the investigation was proceeding well and that indictments were probable. He said that in late 1980 he assumed tight control of the investigation because it had not been conducted properly.

The Richmond attorney told us that because he wanted to maintain the staff already assigned to the investigation, he had stated in memorandums that Newport News employees would be indicted in the fall of 1979 when the first grand jury was due to end. He explained that he believed indictments were possible and wrote the memorandums in an overly optimistic manner so that the FBI, Navy, and U.S. attorney supervisors would allow their employees to remain on the investigation. He said that, if he had not projected indictments, he would probably have lost some of the staff before they finished investigating their claim items. The Alexandria attorney said he did not provide the Richmond team with an overall plan, strategy, duties, or responsibilities and did not supervise daily operations because he believed that the combination of the Fraud Section attorney and the Richmond attorney provided sufficient supervision for the investigation. The Richmond attorney told us that he kept the Alexandria supervisor informed on investigative strategy, progress, and problems by written memorandums and phone calls and that the supervisor approved all strategy decisions.

The Richmond attorney assigned responsibility for investigating specific claim items to teams made up of attorneys and investigators. The Richmond attorney told us that he was the lead attorney over the other attorneys. He said, however, that he only involved himself in the specifics of the claim items that other attorneys had primary responsibility for after they drafted their prosecutive reports. The Alexandria supervisor and second Fraud Section attorney told us, however, that the Fraud Section attorney was a co-equal with the Richmond attorney. The third Fraud Section attorney said she had assumed she would be an equal partner in the investigation but that the Richmond attorney made it clear to her that he was supervising daily operation of the investigation. The Navy attorneys and FBI agents we interviewed told us that it was clear to them that they were responsible for investigating specific claim items and that the Richmond attorney was in charge of the overall investigation.

During the Richmond phase of the investigation, on May 29, 1979, a Navy Deputy General Counsel requested that the Navy attorneys return to their Navy duties. The Criminal Division objected to the Navy attorneys' removal because they were the only attorneys "with any meaningful understanding in their assigned areas of investigation." The Navy's General Counsel rejected this argument, stating that it was not the Navy's fault if the Criminal Division had doubts about the investigation's direction and control. The Navy attorneys were instructed by the General Counsel to return to their Navy duties by August 1, 1979. On July 13, 1979, the Navy agreed to extend the return date until November 1, 1979, and then make the Navy attorneys available on an as-needed basis. The Navy attorneys returned to their Navy duties on November 1 but continued to prepare prosecutive reports which were submitted to the Richmond attorney in March 1980. The reports did not recommend prosecution on the specific items they addressed.

The Richmond assistant U.S. attorney was the only full-time attorney working on the investigation during January to October 1980 when the Richmond prosecutive report was submitted to the U.S. attorney. After the report, which recommended declination for all claim items, was submitted, the Alexandria supervisory assistant U.S. attorney and another assistant U.S. attorney were assigned to continue the investigation and, along with the U.S. attorney and another assistant U.S. attorney, reviewed the investigative results in detail.

The number of attorneys on the investigation fluctuated between two and four during 1981. One Alexandria attorney stopped participating in the investigation in order to handle another case, the Richmond attorney left the U.S. attorney's office for private practice, and a Criminal Division attorney

was assigned to assist in writing the Alexandria status report. The U.S. attorney had supervisory responsibility during this period. In addition, the FBI did not participate in the investigation after January 1981 except for two approximately 1-month periods when one agent assisted in reviewing evidence.

No one was assigned to the investigation between January and April 1982 because the Fraud Section was waiting for an attorney to become available. Between April and August 1982, one Criminal Division attorney was assigned full-time to review the investigative results. After that, the number of attorneys involved fluctuated as various prosecutive memorandums were prepared and reviewed until August 1983 when prosecution was declined.

EXPERIENCE OF KEY STAFF

The work experience of the attorneys assigned to the Richmond phase varied. The Richmond assistant U.S. attorney told us he had worked in Justice's Antitrust Division and on another shipbuilding fraud case for the U.S. attorney's office before being assigned to Newport News. Both Navy attorneys told us they had extensive experience with civil litigation concerning shipbuilding contracts prior to the Newport News investigation. One had been assigned to Justice's investigation of the Lockheed Shipbuilding and Construction Company and both had reviewed the Newport News claims before the matter was referred to Justice. The first Fraud Section attorney had been an FBI agent for 7 years before being assigned to the Newport News investigation. The second Fraud Section attorney had been an assistant U.S. attorney for about 4 years and a Fraud Section trial attorney for about 1 year before being assigned to Newport News. The third Fraud Section attorney had been a trial attorney in Justice's Civil Division for more than 3 years and in the Fraud Section for 1 year before being assigned to Newport News.

Both of the attorneys who handled the Alexandria phase told us they had extensive experience before the Newport News investigation. One had been an assistant U.S. attorney handling civil and criminal cases for about 7 years, and the other had been an assistant U.S. attorney for more than 1 year and a Criminal Division attorney for about 4 years.

The Criminal Division attorney who reviewed the investigation in April 1982 had been Deputy Director of the division's Office of Economic Crime Enforcement for about 20 months, the Attorney-In-Charge of an Organized Crime Strike Force for about 2 years, and a trial attorney on the strike

force for 5 years before reviewing the Newport News investigation.

INVESTIGATIVE STRATEGY

The Richmond assistant U.S. attorney outlined the original prosecutive strategy for the investigative staff on August 14, 1978. The original outline specifically states that they were going to build the case step by step, focusing on individual claim items and not try to prove at the outset any conspiracy to either defraud the government or obstruct the review of shipbuilding claims. The Richmond attorney told us, however, that it was always his and the other attorneys' intention to prove an overall conspiracy by showing that false statements were submitted in individual claim items. It was his intent to obtain enough evidence to indict one or more Newport News employees and then have them give evidence against higher level officials and the company.

A January 29, 1979, memorandum to the investigative staff reported the results of a meeting among the four attorneys on the investigation. The memorandum stated that the item-by-item approach would still be followed but that one of the Navy attorneys would establish an independently staffed audit and accounting team to deal with matters that cut across individual items. The attorneys concluded that the investigation was going well given its size, logistics, and complexity. They projected that prosecutive decisions could be made in the late spring of 1979.

By letter dated July 6, 1979, the Richmond attorney summarized the investigation's status for the U.S. attorney. The letter stated that the investigative strategy was moving from one of reviewing individual claims for false statements to one of pursuing evidence of a conspiracy to submit a claim for a specified dollar amount, regardless of the claim's validity. It stated that the task force intended to compile indictments by October 1, 1979, and then to indict one or more individuals, but not the company, on about 10 items that were submitted to the Navy with knowledge that they were false or in reckless disregard of contrary facts. The letter stated that the hope was that convictions or plea bargains with these individuals would enable the task force to move against the shipyard and its top management. An October 4, 1979, letter to an FBI agent states that the investigative strategy remained the same at that time.

The investigative strategy changed to focus on the Ventilation Control Air System claim item during the Alexandria phase. The two Alexandria assistant U.S. attorneys told us that they had evidence to prove that this item contained false

statements. One of the two attorneys told us that, because the other attorney had to prepare a different case and one attorney was not sufficient to conduct the investigation, the strategy changed to review other claim items in order to determine if they were prepared by Newport News in a similar manner to the air control item. This attorney said that similar items were identified and that these items were discussed in the November 1981 status report.

The strategy of the final phase, after the Criminal Division took control of the investigation, was to review the investigatory results from the Richmond and Alexandria phases and interview Newport News employees in order to determine if additional investigation was warranted. The Assistant Attorney General, Criminal Division, decided it was not warranted, based on the recommendation of the Chief of the Fraud Section, and declined prosecution in August 1983.

DELAYS AND INTERRUPTIONS

The chart on pages 17 through 22 shows periods of time that may appear to have been delays and interruptions in the investigation. The first 6 months after the allegations were referred to Justice by the Navy were used primarily as "learning curve time." During this time, an assistant U.S. attorney who we were told was going to supervise the investigation resigned in order to enter private practice. Assistant U.S. attorneys told us that this resignation delayed the investigation until August 1978 when a Richmond assistant U.S. attorney started the investigation. Between August 1978 and April 1981, the investigative team reviewed documents, interviewed officials, conducted grand jury sessions, and wrote and reviewed prosecutive reports. The Richmond attorney told us that the investigation was interrupted during this period, however, (1) when the Navy attorneys returned to their Navy duties before their prosecutive reports were written; (2) when the Alexandria attorneys took control of the investigation and had to become familiar with all the material relating to the investigation; and (3) during the summer of 1979 when the Richmond attorney worked on other cases and took leave for 2 weeks to prepare for the bar examination.

An Alexandria assistant U.S. attorney told us that the only investigatory work done between May and November 1981 was a careful review of Navy's analysis of the claims. No investigatory work was done between November 1981 when the Alexandria status report was submitted and April 1982 when a Criminal Division attorney started reviewing the investigative files. After August 5, 1982, when the Criminal Division attorney recommended that the investigation continue, no additional investigatory work was conducted. During the

remainder of the time, the attorneys prepared prosecutive memorandums, reviewed other people's prosecutive memorandums, and attended meetings in order to decide whether to continue the investigation or decline prosecution.

Newport News Shipbuilding and Dry Dock Company

Calendar Year 1978

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
Case Action		Navy General Counsel referred allegations of false claims to the Justice Department		FBI started interviewing Navy witnesses and reviewing documents.	"Learning Curve Time"			Meeting between Navy officials and investigative team to discuss claims to be investigated	Case organization and strategy memo by asst. US attorney (Richmond) provided to investigation team and active investigation commences		Grand jury impaneled in Richmond, Virginia.	Investigation	
Attorneys Working on Case													
Attorneys	(1)		(4)					(6)					
Investigators Working on Case													
Investigators				(2)	(4)	(5)	(6)	(7)	(8)		(7)	(8)	
Total Attorneys and Investigators Assigned	1	1	4	6	8	9	10	13	14	14	13	14	

Legend:

- F — FBI agent
- J — Criminal Division attorney
- N — Navy investigator
- NA — Navy attorney
- PT — Part-time
- S — Supervisor
- US — U.S. attorney/Asst. U.S. attorney

- NOTES A. This Fraud Section attorney was assigned before Navy referred the case to Justice so that Justice could "better determine an adequate commitment of personnel" to pursue the investigation.
- B. Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

Newport News Shipbuilding and Dry Dock Company

Calendar Year 1979

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Case Action	Memorandum from Asst Attorney General Criminal Division to FBI outlining staffing, status, and next steps.			Continuing			Letter from assistant U.S. attorney (Richmond) to U.S. attorney outlining prosecutive strategy, staff requirements and status of the investigation.				Last session of first grand jury. Active investigation had ceased for most items.	Meeting between investigative team and U.S. attorney (Alexandria).
Attorneys Working on Case	(1)		(7)			(7)				(6)		(5)
Attorneys <i>776</i> <i>J-7</i> <i>(Note A)</i>			<i>J-3</i>			<i>SUS-4</i>				<i>J-2</i>		<i>J-3</i>
Investigators Working on Case							(7)	(6)		(5)		
Investigators												
Total Attorneys and Investigators Assigned	14	14	15	15	15	15	<i>F-4</i> 14	<i>N-3</i> 13		<i>F-5</i> 11	11	10

Legend:

- F — FBI agent
- J — Criminal Division attorney
- N — Navy investigator
- NA — Navy attorney
- PT — Part-time
- S — Supervisor
- US — U.S. attorney/Asst. U.S. attorney

NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

Newport News Shipbuilding and Dry Dock Company

Calendar Year 1980

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Case Action			Admiral Rickover met with Attorney General Civiletti concerning the status of the investigation.	Meeting of investigative team attorneys to assess the prospect of continued investigation. Asst. U.S. attorney (Richmond) informs Asst. U.S. attorney (Alexandria) of intention to decline on all but one item.	Grand jury sessions held.	A second grand jury finished hearing evidence.		Asst. U.S. attorney (Richmond) begins preparing final pros. report.		Prosecution report sent to U.S. attorney which recommended closing investigation without further inquiry.		Series of conference memos by assistant U.S. attorney (Alexandria) reviewing the prosecution report.
Attorneys Working on Case												
Attorneys	(5)		(3)							(4)	(4)	
Investigators Working on Case			NA-1 NA-2							US-5 US-3	US-3 SUS-3 (PT)	
Investigators	(4)			(2)							(Note A)	
Total Attorneys and Investigators Assigned	F-1 9	9	7	F-2 F-3 5	5	5	5	5	5	6	6	6

Legend:

- F — FBI agent
- J — Criminal Division attorney
- N — Navy investigator
- NA — Navy attorney
- PT — Part-time
- S — Supervisor
- US — U.S. attorney/Asst. U.S. attorney

- NOTES: A. Chief, Fraud Section, U.S. Attorney's Office, Eastern District of Virginia, originally had supervisory authority over the investigation, beginning August 1978. In November 1980, he became a line attorney personally involved in the investigation.
- One of these two attorneys was the U.S. attorney who, while acting as overall supervisor, was not actively involved in the day-to-day investigation.
- B. Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

Newport News Shipbuilding and Dry Dock Company Calendar Year 1981

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Case Action	Matter reviewed by U.S. attorney (Alexandria). Third grand jury started holding sessions.		Newport News filed a motion before the Richmond district court seeking an order terminating the investigation.	Third grand jury held its last session. Richmond district ruled that the investigation could continue.		Asst. U.S. attorney (Alexandria) actively reviewing claim items.			Asst. U.S. attorneys (Alexandria) begin preparing status report; request assistance of Criminal Division attorney.		Status report by asst. U.S. attorneys recommended that the investigation be continued.	
Attorneys Working on Case												
Attorneys				(3)		(2) (Note A)		(3)	(4)		(3)	
Investigators Working on Case				US-3		US-2						US-3 J-4 SUS-6
Investigators												
Total Attorneys and Investigators Assigned	4 F-1 F-3 (PT)	5 F-2	4 F-2	3	3	2	2	3	4	4	3	3

Legend:

- F — FBI agent
- J — Criminal Division attorney
- N — Navy investigator
- NA — Navy attorney
- PT — Part-time
- S — Supervisor
- US — U.S. attorney/Asst. U.S. attorney

NOTES: A. Chief, Fraud Section, U.S. Attorney's Office, Eastern District of Virginia. originally had supervisory authority over the investigation, beginning August 1978. In November 1980, he became a line attorney personally involved in the investigation.
 B. Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

Newport News Shipbuilding and Dry Dock Company

Calendar Year 1982

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Case Action	Meeting between Criminal Division and U.S. attorney's office to discuss which office would handle the investigation.		Letter from U.S. attorney to Asst. Attn. General confirming that the Criminal Division had accepted full responsibility for the investigation.	New line attorney in Criminal Division began review of the investigation.				Memorandum by line attorney in Criminal Division recommending further investigation. Supervisory Fraud Section attorney begins review of investigation.	Memorandum by line attorney in Criminal Division regarding an investigation workplan. A second supervisory Fraud Section attorney begins review of the investigation.		Memorandum by line attorney in Criminal Division presenting his views on the investigations. Supervisory Fraud Section attorneys begin preparing memorandum recommending declination.	
Attorneys Working on Case	(0)			(1)				(2)	(3)		(2)	
Attorneys				J-5				S-6	S-6			
Investigators Working on Case	US-2 US-3 SUS-6										J-5	
Investigators	(0)			(1) — (0) F-2								
Total Attorneys and Investigators Assigned	0	0	0	2	1	1	1	2	3	3	2	2

Legend:

- F — FBI agent
- J — Criminal Division attorney
- N — Navy investigator
- NA — Navy attorney
- PT — Part-time
- S — Supervisor
- US — U.S. attorney/Asst. U.S. attorney

NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

Newport News Shipbuilding and Dry Dock Company

Calendar Year 1983

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG
Case Action		Memorandum from the Chief, Fraud Section, to the Assistant Attorney General, Criminal Division, recommending declination.			Memorandum from U.S. attorney critiquing Feb. Fraud Section memorandum and recommending that the investigation proceed.			Meeting among Assistant Attorney General, Chief, Fraud Section, and line attorneys. Memorandum from Fraud Section recommending declination. Letters from Asst. Attorney Gen. declining prosecution.
Attorneys Working on Case								
	(1)			(5)	(1)			(0)
Attorneys				J.A. SUS US US US				
Investigators Working on Case	S-J				US US US	US US J.A.		S-J
Investigators								
Total Attorneys and Investigators Assigned	1	1	1	5	1	1	1	0

Legend:

- F — FBI agent
- J — Criminal Division attorney
- N — Navy investigator
- NA — Navy attorney
- PT — Part-time
- S — Supervisor
- US — U.S. attorney/Asst. U.S. attorney

NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

MANAGEMENT OF LOCKHEED
SHIPBUILDING AND CONSTRUCTION
COMPANY INVESTIGATION

The Lockheed Shipbuilding and Construction Company submitted claims to the Navy for additional costs on contracts to construct five destroyer escorts and seven amphibious transport dock vessels. These claims were first submitted in November 1968 and were subsequently amended at various times to raise the amount claimed to about \$160 million. On January 29, 1971, representatives of the Naval Ship Systems Command and Lockheed tentatively agreed to settle the claims for \$62 million. However, higher level Navy officials rejected this settlement, and Lockheed appealed to the Armed Services Board of Contract Appeals. On May 14, 1975, the Appeals Board ruled that the Navy was bound by the \$62 million settlement.

THE INVESTIGATION

The Navy, by letter dated December 11, 1974, referred allegations to the Criminal Division that Lockheed had inflated the amounts claimed for steel and related labor costs in excess of the amounts actually used. These allegations were made by officials who analyzed the claims for the Navy. On January 22, 1975, the Criminal Division requested that the FBI conduct an investigation to determine if the steel claim violated false claims, conspiracy to defraud, and false statements statutes (18 U.S.C. 287, 371, and 1001).

The FBI's Seattle field office conducted the investigation, which included the review of thousands of documents and about 600 interviews, and then submitted a 22 volume final summary report to the Fraud Section on September 13, 1977. During the investigation, additional irregularities on Lockheed's part were identified and investigated for possible fraud, including allegations that (1) false costs were used in contract negotiations for a Coast Guard icebreaker, (2) the certification of welders was false on one of the contracts, (3) gratuities had been given to a key Navy official involved in reviewing the claims, and (4) the claims were for total construction costs, including profit, regardless of whether the costs were caused by the Navy or the contractor (referred to as total cost recovery). A Fraud Section attorney told us that, in December 1977, a Fraud Section Indictment Review Committee reviewed the investigation's progress and recommended that a grand jury be used to obtain additional evidence concerning the total cost recovery theory. A Fraud Section attorney told us that Indictment Review Committees were used at the time to monitor the progress of investigations and that their recommendations were advisory but not mandatory. In January 1978, a Fraud Section attorney and an FBI agent agreed that prosecution should be declined on all but

the total cost recovery issue and that the remaining investigative time should focus on this issue.

Grand jury sessions were held in June and August 1978. A Fraud Section attorney told us that the grand jury was used in order to obtain additional documents from Lockheed and to interview officials under oath. An FBI agent said that Lockheed's attorneys requested a meeting with Justice officials to discuss areas being investigated, and meetings were held in October 1978 and February 1979. The agent said that between September 1978 and February 1979 he and a Fraud Section attorney prepared for the meetings with Lockheed's attorneys. In June 1979, Lockheed's attorneys submitted a 215-page argument against indictment to Justice. An FBI agent and a Fraud Section attorney told us they spent their time from February through August 1979 reviewing and analyzing Lockheed's concerns. They said that this review did not take up all of their time and that during this period they worked on other cases. An undated memorandum by a Fraud Section attorney concluded that, on the basis of interviews of Lockheed and Navy officials; the records of Lockheed, the Navy, and a certified public accounting (CPA) firm which had audited Lockheed's accounts; and the Lockheed attorneys' arguments, prosecution was not warranted under the total cost recovery theory, which was the only item still being considered for prosecution. The Criminal Division declined prosecution, notifying the FBI of this on September 27, 1979, and the Navy on October 16, 1979.

STATUTE OF LIMITATIONS CONSIDERATIONS

According to Justice's Fraud Section, November 1979 was the statute of limitations date for criminal false claims, false statements, and conspiracy prosecution.

STAFFING AND SUPERVISION

Fraud Section

The Fraud Section assigned the investigation to one of its trial attorneys on a part-time basis in December 1974. This trial attorney was responsible, during the entire investigation, for providing guidance and advice to the FBI agents conducting the investigation and for making the final prosecutive decisions. The attorney told us that he could not make a reliable estimate of the proportion of his time spent on the Lockheed investigation. The attorney and an FBI agent told us that the attorney provided most of his guidance by telephone. The agent said that the attorney made 2 trips to Seattle and that FBI agents made 10 trips to Washington to confer with the attorney. The agent said that, during these visits, the attorney reviewed records of interviews, Lockheed documents, and

other evidence as well as discussed the investigation with the agents.

Navy

The Navy assigned an attorney to the investigation who was already in Seattle reviewing the Lockheed claims for the Navy. This attorney was assigned from the time the claims were referred to Justice in December 1974 through the spring of 1975. This attorney, who no longer works for the Navy, told us that she briefed the Fraud Section attorney and an FBI agent in Washington, D.C., on Navy's earlier review findings. She also said she spent time in Seattle "teaching" the assigned FBI agents technical aspects concerning shipbuilding, answering questions from individual agents, and providing advice on Navy procurement and contract claim procedures. A Navy official told us that the Navy attorney was reassigned to other Navy duties when the FBI agents decided they no longer needed full-time assistance from the Navy.

FBI

On January 22, 1975, the Criminal Division transmitted the Navy referral to the FBI and requested an investigation. The Division estimated that the investigation would involve the review of thousands of documents and interviews of more than 50 people. In January, the FBI assigned the case to a special agent in its Seattle field office who shared overall responsibility for the investigation with another agent who was assigned later. The first agent, hereinafter referred to as the case agent, remained on the investigation until it was terminated by the Criminal Division in October 1979. The case agent received guidance and direction from the Fraud Section attorney and reported to a supervisory special agent in Seattle.

From March 1975 to September 1977, the FBI maintained a staff of four to eight agents on the investigation, a number which was based on changing investigative needs. All of the agents were assigned prior to March 1976. In July 1976, the number of agents began to gradually decline until, by October 1977, two agents remained on the investigation until August 1978. From August 1978 to September 1979, when the case was terminated, only the original case agent was assigned to the investigation. The average length of assignment was 27.3 months, with a range of from 9 to 58 months.

The case agent told us that six agents were assigned to review the steel claim allegations and that additional agents were added as new investigatory issues were identified. Likewise, the case agent said that agents were reassigned from the case when their parts of the investigation were completed.

EXPERIENCE OF KEY STAFF

The backgrounds of the Navy and Fraud Section attorneys and FBI agents assigned to the investigation varied. The Justice attorney said he had been in the Fraud Section since 1971 and had worked on various types of cases, including procurement fraud cases, but not shipbuilding cases. The Navy attorney had been a senior trial attorney on shipbuilding claims before being assigned to the Lockheed claim and had reviewed the Lockheed claims in Seattle during most of 1974. The eight FBI agents had accounting degrees and had worked for CPA firms before joining the FBI. Five of these agents were Certified Public Accountants, and six had worked on white collar crime investigations before their Lockheed assignment.

INVESTIGATIVE STRATEGY

Both the Justice attorney and the case agent we talked to said that investigative strategy was established, immediately after referral, by the case agent and his FBI supervisor with the assistance of the Navy attorney. The Fraud Section attorney said he was aware of the strategy but was not a primary participant in its initial development. The original investigative strategy was for six FBI agents to reconstruct Lockheed's accounting and billing records concerning steel usage and related labor costs for a 5-year period. During the course of this investigation, additional allegations of fraudulent activities were identified, and the strategy was changed to incorporate the investigation of these additional concerns. This first phase of the investigation lasted more than 2-1/2 years until the FBI's final report summarizing the investigative results was submitted to the Fraud Section attorney in September 1977.

The Fraud Section attorney and FBI case agent told us they chose not to use a grand jury during the first phase of the investigation because Lockheed had agreed to provide the FBI with complete access to its records and employees. The FBI case agent told us that, after the FBI agents presented their investigative report, they told the Fraud Section attorney that some Lockheed employees may not have been completely honest or complete in their responses to FBI questions. The Fraud Section attorney told us he discussed this with an Indictment Review Committee that had been monitoring the investigation's progress, and the committee recommended that witnesses be questioned before a grand jury so that their testimony would be under oath. We could not review grand jury material, but we were told that the only item being investigated at that time was the total cost recovery theory. The grand jury sessions were held in June and August 1978.

After the grand jury sessions, the case emphasis shifted from one of investigating original material to one of reviewing evidence already collected in order to make the final prosecutive decision. The FBI case agent and Fraud Section attorney told us that they mutually agreed that prosecution should be declined.

DELAYS AND INTERRUPTIONS

The chart on pages 28 through 32 shows, among other things, the major case actions during the investigation. Our review of FBI files and discussions with the Fraud Section attorney and case agent indicated that the investigation was actively conducted between March 1975 and September 1977 when the FBI's report was submitted to Justice. The case agent and Fraud Section attorney told us that the only delays or periods of inaction after that were periods when they were waiting for Lockheed's arguments against indictment which were received in June 1979.

The case agent and attorney both told us that it took more than a year, from August 1978 to September 1979, to make the prosecutive decision because (1) they had promised Lockheed that its attorneys would be allowed to respond to any allegations before prosecutive decisions were made including the one(s) covered during the grand jury and (2) they were reluctant to decline prosecution after so much time and effort had been devoted to the case until they were satisfied that all investigative possibilities had been covered, including an analysis of the Lockheed attorneys' submission. They said that, during this final year of the investigation, there were periods when no work was being conducted concerning the investigation. They said that, during these periods, they worked on other cases.

Lockheed Corporation

1974 Calendar Year 1975

	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
	Navy General Counsel referred allegations of false claims to the Justice Department.		FBI started the investigation.		FBI agents begin review of audit records of CPA firm which audited Lockheed.	Trial attorney from Criminal Division and Navy attorney conduct in-depth review of case in Seattle						FBI prepared summary report.	
Case Action	Investigation Continuing												
Attorneys Working on Case	(2)					(1)							
Attorneys	N-1 (PT) N-1					N-1							
Investigators Working on Case		(1)	(2)	(6)					(7)	(8)		(6)	
Investigators		F	F	F F F					F	F		F F	
Total Attorneys and Investigators Assigned	2	3	4	8	8	7	7	7	8	9	9	7	7

Legend: NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

- F — FBI agent
- J — Justice attorney
- N — Navy attorney
- PT — Part-time

Lockheed Corporation Calendar Year 1976

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
			Meeting between Seattle FBI agent and trial attorney.			Meeting between Seattle FBI agent and trial attorney.			Meeting between Seattle FBI agent and attorneys from the Civil and Criminal Divisions.			Memo from Asst. Attorney General to Deputy Attorney General, advising of FBI staff commitment and of FBI expectation to complete investigation in March, 1977.
Case Action	Investigation Continuing											
Attorneys Working on Case												
Attorneys												
Investigators Working on Case												
Investigators	(7)						(6)			(4)		
Total Attorneys and Investigators Assigned	8	8	8	8	8	8	7	7	7	5	5	5

Legend:

- F — FBI agent
- J — Justice attorney
- N — Navy attorney
- PT — Part-time

NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

Lockheed Corporation

Calendar Year 1977

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Case Action				Investigation Continuing	In-depth review of investigation by the trial attorney from the Criminal Division.	Status meeting among Attorney General, trial attorney, and other Justice attorneys. Memo from Asst. Attorney General to FBI requesting additional investigation until mid-1977. Trial attorney meets with case agents in Seattle.	Meeting between trial attorney from the Criminal Division and Lockheed attorneys.		Lockheed attorneys submit 243 page argument against indictment. FBI submits 22 volume final prosecution report to Justice.	FBI agents present investigative audit results to trial attorney. The Fraud Section's Indictment Review Committee recommends that the case be presented to a grand jury.		
Attorneys Working on Case												
Attorneys	(1)											
Investigators Working on Case												
Investigators	(4)								(3)	(2)		
Total Attorneys and Investigators Assigned	5	5	5	5	5	5	5	5	4	3	3	3

Legend:

- F — FBI agent
- J — Criminal Division attorney
- NA — Navy attorney
- PT — Part-time

NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

Lockheed Corporation

Calendar Year 1978

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Case Action	Meeting of FBI Seattle agent, FBI headquarters, and Justice attorneys on allegations being considered for prosecution. Trial attorney and FBI agent agree to decline prosecution on four items.		Meetings between 2 Seattle FBI agents and trial attorney in Washington DC.	Prepare for grand jury.	Prepare for grand jury.	Grand jury impaneled in Alexandria, Virginia.		Grand jury sessions held.		Lockheed attorneys request meeting with Department of Justice attorneys		
									Evidence Review			
Attorneys Working on Case												
Attorneys												
Investigators Working on Case												
Investigators								(1)				
Total Attorneys and Investigators Assigned	3	3	3	3	3	3	3	2	2	2	2	2

Legend:

- F — FBI agent
- J — Criminal Division attorney
- NA — Navy attorney
- PT — Part-time

NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

Lockheed Corporation Calendar Year 1979

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT
Case Action		Seattle FBI agent and trial attorney met with Lockheed attorneys regarding "areas of concern".				Lockheed attorneys submit 215-page supplementary argument. Seattle FBI analyzes Lockheed attorneys' memo and has several telephone consultations with trial attorney regarding the memo.			Prosecution declined by memo to FBI from the Assistant Attorney General, Criminal Division.	Letter from trial attorney to Deputy General Counsel of the Navy declining prosecution.
	Evidence Review									
Attorneys Working on Case	(1)									(0)
Attorneys										
Investigators Working on Case	(1)									(0)
Investigators										
Total Attorneys and Investigators Assigned	2	2	2	2	2	2	2	2	2	0

Legend:

- F — FBI agent
- J — Criminal division attorney
- NA — Navy attorney
- PT — Part-time

NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

MANAGEMENT OF THE ELECTRIC
BOAT DIVISION OF GENERAL DYNAMICS
INVESTIGATION

On February 14, 1975, the Electric Boat Division of General Dynamics submitted a \$220 million claim to the Navy Department for increased contract costs to construct an SSN 688 class submarine. Electric Boat submitted another \$544 million claim for the same class submarine on December 1, 1976.

THE INVESTIGATION

The Navy General Counsel referred the second Electric Boat claim to Justice for an investigation of possible fraud on February 13, 1978. A grand jury issued its first subpoena on the Electric Boat matter in April 1979 and heard its first witness on May 24, 1979. On July 29, 1980, a Fraud Section attorney sent a memorandum to the Fraud Section Chief recommending indictment of General Dynamics. On July 31, 1980, a Fraud Section Indictment Review Committee met but obtained inconclusive results. The Fraud Section Chief then wrote a memorandum to the Deputy Assistant Attorney General detailing areas for examination by a new grand jury.

The first grand jury expired on August 21, 1980. A new grand jury was impaneled on September 23, 1980. A Fraud Section attorney sent a second memorandum to the Fraud Section Chief on October 30, 1980, reflecting that active investigation had ceased and recommending prosecution. A General Dynamics attorney sent Justice a letter on November 21, 1980, setting forth a position against indictment. On December 1, 1980, the Deputy Chief of the Fraud Section recommended against indictment to the Fraud Section Chief. The second grand jury expired on April 16, 1981.

Between February and December 1981, a Fraud Section attorney wrote another memorandum concerning prosecution, the FBI prepared a memorandum recommending indictment of Electric Boat and two individuals, and the investigative team presented their views to the Fraud Section Chief and Assistant Attorney General, Criminal Division. On October 6, 1981, the Fraud Section's Deputy Chief prepared another memorandum recommending against indictment. On November 12, 1981, the Fraud Section Chief advised Admiral Rickover that prosecution of Electric Boat would be declined. The Assistant Attorney General then advised the FBI and Navy, on December 18, 1981, that prosecution was being declined. In July 1984, the Justice Department reopened its investigation of Electric Boat's claims because of new allegations and additional evidence. So as not to jeopardize the ongoing investigation, we limited our review of this case to

having Justice provide us with general information which is summarized in this appendix.

STATUTE OF LIMITATIONS CONSIDERATIONS

The Fraud Section Chief's October 1, 1984, letter to us states that the statute of limitations date for criminal prosecution under the false claim and conspiracy statutes was December 1, 1981. According to the Fraud Section Chief, this date could have been extended to 1982 or 1983 because of negotiations between the Navy and Electric Boat. The Fraud Section Chief told us, however, that because of new allegations and evidence, the attorneys conducting the current investigation can still use evidence collected during the previous investigation.

STAFFING AND SUPERVISION

Staffing of the Electric Boat investigation is shown in the chart on pages 35 through 38. Data provided to us by Justice does not describe how the investigation was supervised other than to say that supervision was provided by the Chief and a branch chief in the Fraud Section.

EXPERIENCE OF KEY STAFF

According to the data provided to us by Justice, the experience of the attorneys assigned to the investigation included work as trial attorneys in the Fraud Section, Organized Crime Strike Force, and Civil Division; assistant U.S. attorneys; a Navy attorney; and an FBI agent. Three of the nine FBI agents and a Naval Investigative Service agent had experience in criminal investigations, one FBI agent had experience in accounting and in criminal investigations, two other FBI agents had experience in accounting, and another FBI agent had a general background in criminal investigations. One FBI agent had a limited background in accounting and another had only limited experience before the Electric Boat investigation.

INVESTIGATIVE STRATEGY

The data provided to us by Justice does not indicate what investigative strategy was used during the investigation.

DELAYS AND INTERRUPTIONS

We did not obtain information concerning delays and interruptions because the investigation had been reopened in July 1984.

Electric Boat

Calendar Year 1978

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Case Action		Case referred by Navy to Justice										
Attorneys Working on Case												
Attorneys			(2)	(3)				(4)				
Investigators Working on Case												
Investigators			S-1 J-2(PT) J-3					J-4				
Total Attorneys and Investigators Assigned	0	0	2	5	5	6	6	7	7	7	12	12

Legend:

- F — FBI agent
- J — DOJ attorney
- N — Navy investigator
- NA — Navy attorney
- PT — Part-time
- S — Supervisor

NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

Electric Boat

Calendar Year 1979

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Case Action			Grand jury impaneled.	Grand jury issued subpoens.	Witnesses testified before Grand jury.						Investigative report submitted by FBI, New Haven office to FBI headquarters.	
Attorneys Working on Case												
	(5)			(4)	(4)					(3)	(3)	
Attorneys	NA-1			J-4	J-1 NA-1					J-5	SU-6 J-2	
Investigators Working on Case												
	(6)		(5)			(4)						
Investigators												
	F-6		F-5			F-5						
Total Attorneys and Investigators Assigned	11	11	10	9	9	8	8	8	8	7	7	7

Legend:

- F — FBI agent
- J — DOJ attorney
- N — Navy investigator
- NA — Navy attorney
- PT — Part-time
- S — Supervisor

NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

Electric Boat

Calendar Year 1980

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Case Action	Report by case attorney on status of case which contained 1) prosec. theories, 2) summary of grand jury test, and 3) history of investigation.						Memo by case attorney recommended indictment. Fraud Section's indictment review committee results inconclusive.	Grand jury expired. FBI interviewed Navy personnel who negotiated EB claims settlement. EB presented case against prosec.	New grand jury impaneled.	Second memo recommenced prosecution and reflected that active investigation had ceased.	EB attorneys submitted a new letter recommending indictment against EB.	Deputy Chief, Fraud Section recommended against indictment.
Attorneys Working on Case												
Attorneys	(3)				(4)					(3)		
Investigators Working on Case												
Investigators							17			17		
Total Attorneys and Investigators Assigned	7	7	7	6	7	7	7	7	7	6	6	6

Legend:

- F — FBI agent
- J — DOJ attorney
- N — Navy investigator
- NA — Navy attorney
- PT — Part-time
- S — Supervisor

NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

Electric Boat

Calendar Year 1981

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Case Action		Presentation made by investigative task force to Fraud Section.		Second grand jury expired. Chief, Fraud Section, reviewed subpoenaed documents.	EB attorneys requested DOJ to reach decision.	Case attorney prepared prosecution memorandum for Chief of the Fraud Section.			EB submitted final subpoenaed documents.	Memo to file by Deputy Chief, Fraud Section, that no indictment should be sought.	Chief, Fraud Section, memo to AAG, Criminal Division, recommended against indictment. FBI recommended indictment of EB and two individuals.	Case declined by AAG, Criminal Division.
Attorneys Working on Case											(2)	(0)
Attorneys												
Investigators Working on Case											SJ-6 SJ-7	L-5 L-6
Investigators												(0)
Total Attorneys and Investigators Assigned	6	6	6	6	6	6	6	6	6	6	5	0

Legend:

- F — FBI agent
- J — DOJ attorney
- N — Navy investigator
- NA — Navy attorney
- PT — Part-time
- S — Supervisor

NOTE: Entries above the line indicate when people were assigned to the investigation, and entries below the line indicate when people were released from the investigation.

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