

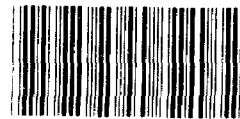
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Briefing Report to the Honorable  
John D. Dingell, Chairman,  
Subcommittee on Oversight and  
Investigations, Committee on Energy and  
Commerce, House of Representatives

January 1987

JUSTICE  
DEPARTMENT

Investigation of Alleged  
Fraud in an Air Force  
Contract



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United States  
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Washington, D.C. 20548

General Government Division

B-225934

January 29, 1987

The Honorable John D. Dingell  
Chairman, Subcommittee on Oversight  
and Investigations  
Committee on Energy and Commerce  
House of Representatives

Dear Mr. Chairman:

This letter responds to your June 17, 1986, request that we develop a chronology of the Department of Justice's actions during its investigation of allegations of fraudulent contract claims against the government by the Pratt & Whitney Aircraft Group (P&W), a subsidiary of United Technologies Corporation. The chronology was to provide details on all activities concerning the P&W investigation by the U.S. Attorney for the southern district of Florida, the Federal Bureau of Investigation (FBI), and Justice headquarters. /C

On September 18, and December 16, 1986, we briefed your office on the results of our work. This letter summarizes the information presented at the briefings. A detailed discussion of our objectives, scope, methodology, and data limitations is included in appendix I. Details on the U.S. attorney's and Justice headquarters' activities, and the FBI's investigation are included in appendixes II and III, respectively. A chart highlighting the activities of the U.S. attorney's office and the FBI is included in appendix IV.

BACKGROUND

On October 20, 1982, a Defense Criminal Investigative Service (DCIS) investigator provided the FBI with information about allegations of possible fraudulent claims against the government by P&W. The questionable claims involved overhead expenses charged to an Air Force contract by P&W for items, such as cars and parties for P&W executives, trips for congressmen, political contributions, golf and fishing trips for military personnel, and contributions to an art exhibit. The FBI immediately referred this matter to the U.S. Attorney's Office for the southern district of Florida and was advised to begin an investigation because the allegations appeared to have merit. The investigation was conducted jointly by the U.S. attorney's office and FBI with assistance from various Department of Defense (DOD) agencies such as DCIS and the Air Force Office of Special Investigations.

## U.S. ATTORNEY'S OFFICE

The extent of activity by the U.S. attorney's office varied throughout the investigation with some periods of inactivity when assistant U.S. attorneys (prosecutors) who had been assigned to the investigation were performing other duties. The U.S. attorney assigned a total of four prosecutors to the investigation. A "main" prosecutor was assigned in October 1982 until about mid-1983 when he was reassigned to other cases. A second "main" prosecutor replaced the first one at that time. Another prosecutor assisted each of the two "main" prosecutors as needed. In June 1985, a fourth prosecutor was assigned by the U.S. attorney to review independently the facts surrounding the case<sup>1</sup> and provide his opinion to the U.S. attorney on whether P&W should be prosecuted.

The first "main" prosecutor told us that around July 1983 he reached a preliminary conclusion that the investigation did not have prosecutive merit. Around August 1984, the second "main" prosecutor told the U.S. attorney and the FBI agents that he did not believe there was a prosecutable case. He worked on other cases until March 1985 when he began preparing a detailed case analysis of the P&W investigation.

The fourth prosecutor finished his review of the investigation in January 1986 and told the U.S. attorney that he saw no viable basis for prosecution. The U.S. attorney agreed and instructed his assistants to prepare a written explanation of the reasons for declining prosecution. From January through June 1986, the prosecutors revised the case analysis and prepared a letter summarizing the reasons for not prosecuting. On July 16, 1986, the U.S. attorney sent the letter and case analysis to the Assistant Attorney General, Criminal Division, and a copy was sent to the FBI's Miami field office. The letter explained that criminal charges against P&W were not warranted largely because the relevant regulatory principles were vague, conflicting, and overlapping and because of the historical treatment of similar costs by both the Air Force and P&W.

## FBI

In October 1982, the FBI assigned two agents from its West Palm Beach suboffice essentially full time to investigate the allegations against P&W. They, with occasional assistance from other FBI agents, interviewed various knowledgeable individuals and reviewed P&W documents, DOD regulations, and other relevant documentation. The FBI agents actively investigated P&W until mid-1984. Their investigation was fairly inactive from mid-1984 until late April 1985 when the

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<sup>1</sup>The term "case" as used throughout this document refers to the allegations against P&W and all investigative matters related to these allegations.

U.S. attorney requested that additional investigative work be done. The FBI completed its work by the end of June 1985. Little work was done by the FBI after June except for requests to the U.S. attorney for a prosecutive decision. After reviewing the detailed case analysis and U.S. attorney's July 16, 1986, letter declining prosecution, the FBI's Miami field office sent a report on its review to FBI headquarters on August 21, 1986. The report stated that P&W could be successfully prosecuted for submitting fraudulent claims to the United States and that prosecution should be pursued. On September 16, 1986, FBI headquarters officials notified the Miami office that they agreed that the P&W claims were outrageous and wrong, but that they also agreed with the U.S. attorney's decision that prosecution was not possible. The FBI then closed its case.

#### JUSTICE HEADQUARTERS

A Deputy Assistant Attorney General, Criminal Division, told us that she was the principal headquarters official involved in the P&W investigation. She said that she had discussed the investigation by telephone with the former U.S. attorney several times, and on February 11, 1986, was briefed on the case's status by the U.S. attorney and his assistants. She also said that she had reviewed the U.S. attorney's decision not to prosecute and she agreed.

As requested by the subcommittee, we did not obtain official agency comments on a draft of this report. We discussed the matters contained in this briefing report with officials from Justice's Criminal Division, the U.S. attorney's office, and the FBI, and they agreed with the facts presented.

We hope you find the enclosed information useful in your oversight activities. As arranged with your office, we plan no further distribution until 30 days from the date of this briefing report unless you publicly announce its contents earlier. At that time, we will send copies to the agencies contacted during our review and make copies available to others upon request. If there are any questions regarding the content of this document, please call me on (202) 275-8389.

Sincerely yours,



Arnold P. Jones  
Senior Associate Director

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### ABBREVIATIONS

AUSA	Assistant U.S. Attorney
DCAA	Defense Contract Audit Agency
DCIS	Defense Criminal Investigative Service
DOD	Department of Defense
FBI	Federal Bureau of Investigation
P&W	Pratt & Whitney Aircraft Group

OBJECTIVES, SCOPE, AND METHODOLOGY

Our review was conducted at the request of the Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce. The Chairman asked us to develop a chronology of the Department of Justice's actions during its investigation of the Pratt and Whitney Aircraft Group (P&W). The chronology was to provide details on all activities, including contacts with the grand jury, concerning the P&W investigation by the U.S. attorney's office, the Federal Bureau of Investigation (FBI), and Justice headquarters.

We conducted our audit work during the period July through November 1986 in accordance with generally accepted government auditing standards. During the week of July 21, 1986, we interviewed the current U.S. attorney and three of four assistant U.S. attorneys for the southern district of Florida who worked on the investigation. On August 15, 1986, we interviewed the Deputy Assistant Attorney General, Justice Criminal Division, who was the headquarters official with supervisory responsibility for fraud matters within the Criminal Division. On August 18 and 19, we interviewed the fourth assistant U.S. attorney who worked on the investigation and the former U.S. attorney who supervised the investigation. During the week of November 3, 1986, we interviewed the primary FBI agent on the investigation and reviewed all case files, except those containing grand jury material, in the FBI's Miami field office. We also reviewed all documents the U.S. attorney said he could find in his P&W correspondence files that did not contain grand jury information.

DATA LIMITATIONS AND DELAYS

In a letter dated July 3, 1986, we requested authorization to interview FBI agents who worked on the P&W investigation and access to the FBI's case files. On July 10, 1986, the FBI denied our access because the investigation was in a "pending" status. In a July 14 letter, we requested that the FBI reconsider this decision. On July 16, the FBI reiterated its policy of not granting access on pending cases and remained firm on its decision to deny us access to its agents and files.

On September 18, 1986, an FBI official advised us that the FBI would not appeal the U.S. attorney's decision not to prosecute P&W. As a result, the official told us that they would provide us access to case agents and documents. On September 24, 1986, however, the FBI asked that we make another written request for access through the Deputy Assistant Attorney General, Criminal Division.

On September 25, 1986, we hand delivered a letter to the Deputy Assistant Attorney General requesting permission to interview FBI case agents and access to relevant FBI and U.S. attorney

documents. Our access was not formally granted until October 30, 1986, when we received a letter dated October 29, 1986, from the Deputy Assistant Attorney General authorizing us access to FBI agents and files.

We were permitted to review all FBI case files and to take notes on all documents, except those containing grand jury material. The U.S. attorney permitted us to review and take notes on correspondence from his files. He told us that, between the documents reviewed at his office and those we reviewed at the FBI, we had seen all documents concerning the P&W investigation, except those containing grand jury information.

We were not permitted to review any documents which contained information obtained through the grand jury at any time during this assignment. Such information is protected from disclosure under Rule 6(e) of the Federal Rules of Criminal Procedure. However, we requested information on the dates of grand jury sessions concerning the P&W investigation. On December 15, 1986, the Deputy Assistant Attorney General, Criminal Division, told us that the Chief Judge of the Southern District of Florida had not decided whether this information should be released.



CHRONOLOGY OF ACTIVITIES OF THE  
U.S. ATTORNEY'S OFFICE BY YEAR

1982

Summer/early Fall: Defense Contract Audit Agency (DCAA) resident auditors at P&W's West Palm Beach, Florida, facility provided the DCIS with allegations of possible criminal false claims by P&W on an Air Force contract.

October: DCIS referred the allegations to the FBI's West Palm Beach office. The FBI then contacted the U.S. Attorney's office for the southern district of Florida concerning these allegations.

October/November: The U.S. Attorney for the southern district of Florida assigned an assistant U.S. attorney (prosecutor #1) as the "main" prosecutor. According to prosecutor #1, he initially spent about 60 to 70 percent of his time on the P&W case. A second assistant U.S. attorney (prosecutor #2) was also assigned to assist with the investigation.

November/December: A federal grand jury issued its first subpoena on November 9 for individuals to testify on November 30. Prosecutor #2 began working with the FBI reviewing documents received as a result of the subpoena.

1983

January: Prosecutor #1 transferred the case from an expiring grand jury to a new one.

February through June: The investigation continued with a decreasing amount of effort by prosecutor #1.

Approximately July: Because prosecutor #1 was handling other priority cases, the U.S. attorney transferred the case to another assistant U.S. attorney (prosecutor #3), with prosecutor #2 continuing to assist on an as needed basis. Prosecutor #1 indicated to the U.S. attorney at this time that his preliminary conclusion was that the case did not have prosecutive merit.

August: Prosecutor #3 continued the investigation.

September/October: The grand jury issued subpoenas for additional documents.

October through December: Toward the end of October, prosecutor #3 began preparing to try a bankruptcy case he had taken over for another assistant U.S. attorney who was leaving the office. According to prosecutor #3, he was fairly inactive on the P&W case except for reviewing some records and occasional phone calls.

1984

January through April: Prosecutor #3 continued to work on the bankruptcy case.

May: Early in the month, a meeting was held between officials in the U.S. attorney's office and the FBI to decide what additional investigative work remained and what additional questions to pursue. According to prosecutor #3, the FBI agents were eager to push forward but the prosecutor expressed doubt that there was a criminal case, even though he regarded some of the costs as "outrageous and bizarre."

June through August: Prosecutor #3 worked on the P&W case "pretty much" full time, going through documents and files and asking questions.

September through December: Toward the end of August or early September, prosecutor #3 told the U.S. attorney and FBI that he did not think there was a prosecutable case. He did not present the case to a new grand jury. Starting about November, he worked on other cases and was not active on the P&W case. During this period, no one from the U.S attorney's office worked on the P&W case.

1985

January/February: Prosecutor #3 continued his work on other cases. The FBI's Miami field office sent a letter to the U.S. attorney asking for a prosecutive opinion and saying that, in their opinion, all logical investigative work had been completed.

March: Early in the month, prosecutor #3 began working on a detailed case analysis of the P&W investigation for the U.S. attorney. According to prosecutor #3, he was very careful and deliberate in preparing this analysis because the U.S. attorney was very interested in the case and the FBI had a strong opinion about prosecuting. He said he wanted to have a detailed, thorough record of his analyses and reasons for his negative opinion.

April: On April 23 and 24, the Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, held hearings on the allegations surrounding the P&W investigation. During an April 24 meeting, the U.S. attorney requested additional work be done by the FBI.

May: FBI officials presented their May 21, 1985, case agent's report to the U.S. attorney at a May 23, 1985, meeting in the U.S. attorney's office. The U.S. attorney requested that additional evidence be obtained and a subpoena was subsequently issued.

June: The U.S. attorney told another assistant U.S. attorney (prosecutor #4) to review the P&W case and provide his opinion on its prosecutive merit after prosecutor #3 finished the case analysis.

July/August: Although the U.S. attorney's office was still obtaining additional records, prosecutor #3 completed the case analysis about the second week of July. Prosecutor #3 reviewed the additional records as they came in and contacted various officials about these records. Prosecutor #4 began his review of the P&W case, including the case analysis and the FBI case agent's report. Toward the end of August, prosecutor #3 was assigned to prosecute another unrelated case.

September through December: Prosecutor #3 returned essentially full time to the P&W case about the middle of October and began revising the case analysis. Prosecutor #4 spent about 75 percent of his time reviewing the P&W material. According to prosecutor #4, he had doubts about the prosecutorial merits of this case but had not articulated these doubts to the U.S. attorney. Toward the end of December, prosecutor #4 was not working on the P&W case because he was preparing a brief for another case.

#### 1986

January: About mid-January, prosecutor #4 resumed working essentially full time on the P&W case. Prosecutor #3 continued to work essentially full time on the P&W case also. At the end of January, prosecutor #4 expressed his opinion to the U.S. attorney that he saw no "viable basis" for prosecution. The U.S. attorney instructed prosecutors #3 and #4 to prepare a written explanation of the reasons for declining prosecution.

February: On February 11, the U.S. attorney's office briefed a Deputy Assistant Attorney General, Justice Criminal Division, on the P&W case. The U.S. attorney told her that he was inclined not to prosecute but a couple of weeks were needed to tie up loose ends before he could make a final decision.

March through June: The U.S. attorney's office was writing, reviewing, and revising the explanation of the reasons for not prosecuting. In April, the Deputy Assistant Attorney General, Criminal Division, wrote a letter to the U.S. attorney inquiring about the status of the prosecutorial decision and the case analysis.

July: In a July 16, 1986, letter, the U.S. attorney informed the Criminal Division and the FBI's Miami office that P&W would not be prosecuted.

August: The Deputy Assistant Attorney General, Criminal Division, told us that the U.S. attorney's decision not to prosecute represented Justice's position.

CHRONOLOGY OF THE FEDERAL BUREAU OF  
INVESTIGATION'S ACTIVITIES BY YEAR

1982

October: On October 20, based on information obtained while investigating an employee of DCAA, a DCIS investigator contacted the FBI's West Palm Beach office about allegations of fraud against the government by P&W. An interview with DCAA auditors at the P&W facility was conducted to substantiate the issues raised. An assistant U.S. attorney was also contacted for an initial opinion about the allegations. This attorney advised the FBI that the allegations appeared to have merit and therefore, a preliminary investigation should be started. Defense Acquisition Regulations and Cost Accounting Standards were reviewed. The primary FBI agent on the investigation told us that, for about the first 6 months to 1 year, he spent about 85 to 90 percent of his time on the P&W case. In addition to the primary agent, there was one other FBI agent essentially full time and about five others assisting with the interviews during the early stages of the investigation.

November through December: On November 9, the first subpoena was served on a P&W official to appear before the grand jury on November 30 with specific documents about P&W's travel and entertainment expenses. Interviews were conducted with DOD personnel to coordinate the investigation and to obtain additional information about the allegations. A former employee of P&W was also interviewed during this time period. Three boxes of documents submitted in compliance with the grand jury subpoena were received from P&W on December 14 and the FBI's inventory of these documents was completed on December 17.

1983

January through May: Additional subpoenas were issued in January and February. Interviews with DOD personnel continued. Both former and current P&W employees were also interviewed during this period. FBI agents were also reviewing documentation and conducting interviews with merchants about their dealings with P&W.

June/July: FBI agents prepared for extensive interviews with selected members of Congress and DOD officials outside of the West Palm Beach area. Because the U.S. attorney had reassigned prosecutor #1 to other cases, the anticipated interviews with members of Congress were held in abeyance until prosecutor #3 became familiar with the issues.

August through September: Interviews were held with civilian and military employees of the Air Force Plant Representative Office at the P&W facility, other DOD personnel, and officials at an Oklahoma art center.

October: Ten members of Congress were interviewed concerning acceptance of travel expenses and honorariums from P&W.

November/December: Interviews were held with the wife of a P&W official, a former P&W official, and a United Technologies Corporation official.

#### 1984

January through June: A former Congressman and an official of the General Electric Corporation were interviewed. The primary FBI agent told us they also reviewed and analyzed documents submitted by P&W.

Late June or early July: A meeting was held with the U.S. attorney's office, at which time the FBI indicated that all records received through the grand jury had been reviewed by its agents and all appropriate interviews conducted. The scope of the investigation was narrowed at this meeting and areas for additional work were identified. The FBI's involvement with this additional work was completed by about the end of July.

August through December: The FBI was inactive on the investigation during this period and was waiting for the U.S. attorney to make a prosecutive decision. According to the primary FBI case agent, the FBI contacted the U.S. attorney's office on several occasions urging the U.S. attorney to make a prosecutive decision.

#### 1985

January through mid-April: During this period, there was no work done on the investigation by the FBI, other than administrative paperwork to maintain contact with other FBI offices, DOD agencies, and the U.S. attorney's office. A January 8 letter to the U.S. attorney from the FBI summarized the investigation to date, asked that it be brought to a logical conclusion, and informed the U.S. attorney that the FBI was placing the investigative matter in a closed status. Correspondence about the FBI's concerns over delays by the U.S. attorney in making a prosecutive decision was sent between FBI headquarters and its Miami office. On April 18, a subpoena was served on the primary FBI agent working on the P&W case to appear before the House Subcommittee on Oversight and Investigations, Committee on Energy and Commerce.

Late April through June: On April 23 and 24, the subcommittee conducted its hearings on the allegations surrounding the P&W investigation. On April 23, the primary FBI agent who worked on the P&W investigation appeared before the subcommittee. The agent refused to answer questions related to the investigation because he maintained the case was still pending and he had been instructed by his superiors within headquarters not to discuss the issues of the case. A meeting was held on April 24 between

FBI and U.S. attorney's office officials, at which time the U.S. attorney asked that nine additional investigative steps be done. Another meeting was held between the FBI and the U.S. attorney on May 23 to review the case status and remaining efforts needed. The FBI presented its case agent's prosecutive report to the U.S. attorney at the May 23 meeting. Prosecutor #3 indicated during this meeting that his detailed case analysis was yet to be completed. Another meeting was held on June 13 between prosecutor #3 and FBI agents at which time the FBI requested a timetable for completion of the case analysis. Prosecutor #3 advised the FBI that he anticipated completing the analysis by June 30. The primary FBI agent on the investigation told us that he spent almost 100 percent of his time on the case during this time, but that it dropped off appreciably after this period.

July through December: There was some, but very little, work done by the FBI on the investigation throughout the remainder of 1985. On July 8, prosecutor #3 advised the FBI that his case analysis was nearing completion but no specific completion date was given. By letter dated July 15, the FBI again requested that the U.S. attorney take prosecutive action. At an August 12 meeting, prosecutor #3 told the FBI that his case analysis was not yet completed. As of October 9, the case analysis was not available to the FBI. On November 20, prosecutor #3 took custody of all grand jury documents the FBI had received during the investigation. On December 30, the U.S. attorney was advised by the FBI that, because of the pace of the investigation, the FBI's primary agent on the P&W investigation was being assigned other work.

### 1986

January through June: Other than communications between FBI headquarters, the FBI's Miami field office, and the U.S. attorney's office, the FBI performed minimal work on the investigation during this period. On April 8, the FBI sent a letter to the U.S. attorney advising that the detailed case analysis was still not available to the FBI although it had been promised 1 year earlier.

July: On July 2, the FBI sent a letter to the U.S. attorney enclosing copies of earlier letters to the U.S. attorney's office because the FBI had never received replies to these letters, and also indicating that the FBI had never received the case analysis. The FBI's Miami office received a copy of the U.S. attorney's declination letter and the attached 131 page case analysis on July 28.

August to September: Personnel in the FBI's Miami field office reviewed the U.S. attorney's declination letter and case analysis, and on August 21, sent a report of their review to FBI headquarters. On September 16, after reviewing the Miami report and the U.S. attorney's declination letter and case analysis, FBI headquarters personnel notified the Miami office that although

the P&W claims were outrageous and wrong, prosecution was not possible. The FBI then closed its case.

SEQUENCE OF ACTIVITIES ON THE P&W  
INVESTIGATION BY THE U.S. ATTORNEY'S OFFICE FOR  
THE SOUTHERN DISTRICT OF FLORIDA AND THE FBI

As shown in figure IV.1, the U.S. attorney's office investigation lasted from October 1982 through July 1986. During this period, there were about 10 months when the U.S. attorney's office was not actively working on the investigation. The FBI's investigation was open from October 1982 through September 1986. During this period, there were about 21 months when the FBI was not actively working on the investigation.



Figure IV.1:  
 Activities of the U.S. Attorney's Office  
 and FBI From 1982 to 1986<sup>a</sup>

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
1982	//										AUSA 1 on case about 65% of time.		
U.S. Atty.											FBI agents begin investigative work.		
---	---												
1983	AUSA 1 continued on case with time decreasing to about 25% toward the end of involvement.					AUSA 3 assigned and actively involved in the case.							
U.S. Atty.													
---	---												
1984						AUSA 3 resumed work and spent about 100% of his time on the P&W case until September. Started working on other cases in November.							
U.S. Atty.													
---	---												
1985						AUSA 3 writing a detailed case analysis of the investigation and reviewing documents.				AUSA 3 revising the case analysis.			
U.S. Atty.										AUSA 4 reviewing the P&W case.			
---	---												
1986						Additional work done by the FBI.							
U.S. Atty.													
---	---												
1986	AUSA 3 continued revising the case analysis. AUSAs 3 and 4 drafted a written explanation of the rationale for the P&W prosecution decision. Prosecution declined.					//							
U.S. Atty.													
---	---												
1986						FBI reviewed decision and closed its case.							
U.S. Atty.													
---	---												
1986													
FBI													

Legend: AUSA is the abbreviation for assistant U.S. attorney.

Note a: Areas with slashes (/) indicate time periods before the investigation began and after it was completed. Blank areas indicate time periods when the U.S. attorney's office and/or the FBI were not actively working on the investigation.



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