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OFFICIAL TRANSCRIPT OF PROCEEDINGS

Agency: U.S. Nuclear Regulatory Commission
Office of Investigations

Title: INVESTIGATIVE INTERVIEW
William C. Lodge
(Closed)

Docket No.

LOCATION: Cincinnati, Ohio

DATE: Monday, July 16, 1990

PAGES: 1 - 33

EXHIBIT 9
PAGE 1 OF 38 PAGE(S)

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1
2 UNITED STATES OF AMERICA
3 NUCLEAR REGULATORY COMMISSION
4

5 OFFICE OF INVESTIGATIONS

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7 In the Matter of: :

8 INVESTIGATIVE INTERVIEW :

9 William C. Lodge :

10 (CLOSED) :

11 - - - - -X

12
13 Dinsmore and Shohl

14 511 Walnut Street, Suite 2100

15 Cincinnati, Ohio 45202

16 Monday, July 16, 1990
17

18 The above-entitled matter commenced at 2:10
19 o'clock p.m., when were present:
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1 On behalf of the Nuclear Regulatory Commission:

2
3 RICHARD C. PAUL

4 Investigator

5 United States Nuclear Regulatory Commission

6 799 Roosevelt Road

7 Glen Ellyn, Illinois 60137

8
9 On behalf of the University of Cincinnati:

10
11 KENNETH RESNICK

12 DINSMORE AND SHOHL

13 511 Walnut Street, Suite 2100

14 Cincinnati, Ohio 45202

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I N D E X

1		
2	Witness	Examination
3	William C. Lodge	4/31

E X H I B I T S

5	Exhibit Number	Identified
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P R O C E E D I N G S

[2:10 p.m.]

MR. PAUL: For the record, this is an interview of William C. Lodge, spelled L-O-D-G-E, who is employed by the University of Cincinnati, Cincinnati, Ohio.

The location of this interview is Cincinnati, Ohio.

Present at this interview, in addition to Mr. Lodge, are Richard C. Paul, Investigator, U.S. Nuclear Regulatory Commission, and Kenneth S. Resnick, an attorney representing the University of Cincinnati.

As agreed, this interview is being tape-recorded by court reporter Lincoln Davis.

The subject matter of this interview concerns the University of Cincinnati Medical Center. Whereupon,

WILLIAM C. LODGE,

a witness, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. PAUL:

Q Mr. Lodge, I understand you are the Director of Employee and Labor Relations for the University. Is that correct?

A That is correct.

1 Q And how long have you been in that capacity?

2 A Four years.

3 Q Just one point of clarification for the record:

4 Mr. Resnick is your personal representative in this matter.
5 Is that correct?

6 A No. He is representing the University.

7 Q But at this interview, you chose to have him here?

8 A I did choose to have him here; that's correct.

9 Q And he is here based on your request.

10 A Yes, sir.

11 Q How long have you been at the University?

12 A Well, I have been at the University 13 years. I
13 have been the Director -- I'm sorry. I have been the
14 Director for 4 years, but I have been in the Employee and
15 Labor Relations Office for 12 of the 13 years of my
16 employment at the University.

17 Q And do you recall what particular day you started
18 as the Director of Employee and Labor Relations?

19 A Oh, it was -- I think I took the acting job in
20 July of 1986, I became the Acting Director, and then I was
21 confirmed as a permanent Director some months later.

22 Q Who did you replace in that position?

23 A A man by the name of George Salerno.

24 Q And what was your position before you were Acting
25 Director?

1 A I was the Associate Director.

2 Q In your capacity as Director of Employee and Labor
3 Relations, do you review policy related to personnel within
4 departments, say specifically the radiation and safety
5 department, or Radiation Safety Office?

6 A Well, I -- certainly, a major part of my job and
7 of my staff is to review University policy related to
8 specific factual situations that occur at the University.

9 Q What I'd like to do here and what the issue is is
10 a series of three memos that I'll show you here in a second.

11 A Okay.

12 MR. PAUL: They detail notification process for
13 radiation safety problems with the Radiation Safety Office.
14 And I'm going to show these to you and ask you if you are
15 familiar at all with these.

16 The first one is a University of Cincinnati
17 Radiation Safety Committee memoranda. It's dated 1 July
18 1986. It's to the Radiation Safety Office Personnel,
19 University of Cincinnati, and it's from George W. Alexander,
20 Jr. and Kenneth R. Fritz, and the subject is "Proper Channel
21 of Communication for Radiation Safety Office Personnel."

22 I'll mark this Exhibit 1, or Attachment 1.

23 [Attachment 1 marked for
24 identification.]

25 MR. RESNICK: Is there a difference?

1 MR. PAUL: It's a long story, but there is a
2 difference.

3 MR. RESNICK: I figured there was some
4 significance to that change of mind.

5 MR. PAUL: It's a bureaucratic difference.

6 MR. RESNICK: And do you have a question pending,
7 then, to him, on this?

8 MR. PAUL: I would just ask him to review that
9 particular document. And my question is has he ever seen
10 that before?

11 MR. RESNICK: At any time.

12 MR. PAUL: At any time.

13 [Witness perusing document.]

14 THE WITNESS: Yes. I've seen this document.

15 BY MR. PAUL:

16 Q Were you consulted before it was authored or
17 before it was issued?

18 A I cannot say absolutely that I was.

19 Q In what context did you see this document?

20 A After it was -- after it was written and issued to
21 the staff; that's a certainty. Exactly how long after that,
22 whether it was 1 month or 1 or 2 years, I don't know. But I
23 did not review it in advance of its being disseminated to
24 the staff in the Radiation Safety Office.

25 Q Do you recall the circumstances under which you

1 did review this particular document?

2 A Well, as I say, I can't say to a certainty that I
3 reviewed this document or that I reviewed the contents, the
4 potential contents of the document. I would -- I probably,
5 on three or four occasions, between 1984 and 1988, spoke
6 with George Alexander about various edicts or memoranda that
7 he wished to send to the staff about the appropriate use of
8 information in the Radiation Safety Office. And this may
9 have been one of the memoranda that resulted from one of our
10 discussions.

11 Q Maybe I should ask you generally: What was the
12 procedures for an individual such as George Alexander and
13 Kenneth Fritz to issue University policy related to
14 personnel practices, such as this, outside notification
15 problems?

16 MR. RESNICK: Assuming it is University policy.

17 MR. PAUL: Right.

18 MR. RESNICK: You're assuming that. Okay.

19 MR. PAUL: Generally, what the procedure is that
20 exists to make policy.

21 THE WITNESS: They had no authority to make
22 policy. They had no authority to make policy. To the
23 extent that anything they sent out was in conflict with
24 written University policy, it was invalid.

25 BY MR. PAUL:

1 Q At this time -- July 1, 1986 -- did this
2 constitute policy, this memorandum, University policy?

3 A It did not constitute official University policy,
4 in the sense that it did not go through what is known as a
5 Personnel Policy Review Committee, it was not reviewed by
6 the General Counsel's office, and it was not subsequently
7 approved by the University Board of Trustees.

8 Q Is that the normal procedure?

9 A That is the normal procedure, right.

10 Q So, in other words, is there any classification of
11 whether this is unofficial policy, or what is it?

12 A This would be, generically, departmental
13 procedure. Policy at the University is a very formal type
14 thing, as it is with most State institutions in Ohio. There
15 is a specific -- specific laws regarding the adoption of
16 policy. Now, this probably rises to the level of
17 departmental procedure.

18 Q Did Fritz and Alexander have the authority to
19 institute departmental procedure?

20 A Provided that there was no conflict with either
21 the relevant Federal or State law or University policy, yes,
22 they did.

23 Q So, this would have been procedure --

24 A Yes.

25 Q -- for the employees to follow.

1 A That's correct.

2 Q Were the employees subject to disciplinary action
3 based on this procedure?

4 MR. RESNICK: This particular one, Attachment 1.

5 MR. PAUL: Yes, Attachment 1.

6 THE WITNESS: Well, obviously, Mr. Fritz and Mr.
7 Alexander felt that the violation of this would be -- would
8 be grounds for disciplinary action, and I would certainly
9 agree that discussion of patient or student information with
10 persons who do not have a need to know within the University
11 or with anybody outside the University certainly is grounds
12 for disciplinary action, if people are so informed in
13 advance. And the way I read this memo, basically, what
14 they're saying is you don't discuss patient records, patient
15 -- student records, etcetera, with people outside the
16 University.

17 BY MR. PAUL:

18 Q Did you have a discussion with either of these two
19 individuals, Alexander or Fritz, regarding what cause this
20 memo to come out? Was there any particular incident or
21 situation that initiated this memo?

22 A I can vaguely recall discussing with George a
23 situation where -- and I believe this was the same one; I
24 can't say to an absolute certainty, but I know I did have a
25 discussion with George in the last 4 or 5 years about a

1 patient who had had a radioactive implant, a patient --
2 actual inpatient at the University Hospital, who had a
3 radioactive implant of some sort, and there had apparently
4 been a spill or the individual had vomited or defecated, and
5 there had been a -- as result, a radioactive spill within
6 the room. And there was -- in those situations, the
7 radiation safety staff is sent to clean up.

8 We don't have the normal housekeeping department
9 come in, obviously, in those situations, to clean up; we
10 have the radiation safety staff come in. And there:
11 apparently was some -- apparently it's a very messy, ugly
12 situation, and there was some grouching on the part of the
13 radiation safety staff, you know, "Why do we have to come in
14 and clean up this stuff?" And it was, you know, up and down
15 the halls, and you know, "Why us?", and the nurses and the
16 residents overheard them and, you know, that kind of thing.
17 And I recall talking with George and saying, yes, I think,
18 to the extent that they were talking about -- where they
19 might have been overheard by other patients or by visitors
20 in talking about the patient's specific diagnosis or his or
21 her specific problems, that that wasn't appropriate, and the
22 staff can be warned that they are not supposed to walk
23 around talking about this stuff.

24 Q Were you familiar with a situation -- I'm not
25 exactly sure what the date was; I believe it was in '84 to

1 '86 timeframe -- in which a University of Cincinnati
 2 radiation safety technician was (b)(7)(C) over -- I'll try
 3 to find (b)(7)(C) name here -- over allegedly contacting the NRC?
 4 Are you familiar at all with that situation?

5 A Yes, I am. I'm familiar with -- with, I think,
 6 one -- one case where a person was (b)(7)(C)

7 Q Do you recall (b)(7)(C) name?

8 A Well, no. I will --

9 MR. PAUL: I'm trying to find (b)(7)(C) name here. I
 10 had it.

11 MR. RESNICK: May I suggest to you what that name
 12 is?

13 MR. PAUL: Yes.

14 MR. RESNICK: (b)(7)(C) 6,7C

15 MR. PAUL: Yes, (b)(7)(C)

16 BY MR. PAUL:

17 Q Are you familiar with that situation?

18 A I am familiar with the circumstances of (b)(7)(C)

19 (b)(7)(C) which obviously the University feels were for the
 20 reasons that you previously stated.

21 Q Okay. What was the official reason (b)(7)(C) 6,7C

22 (b)(7)(C)

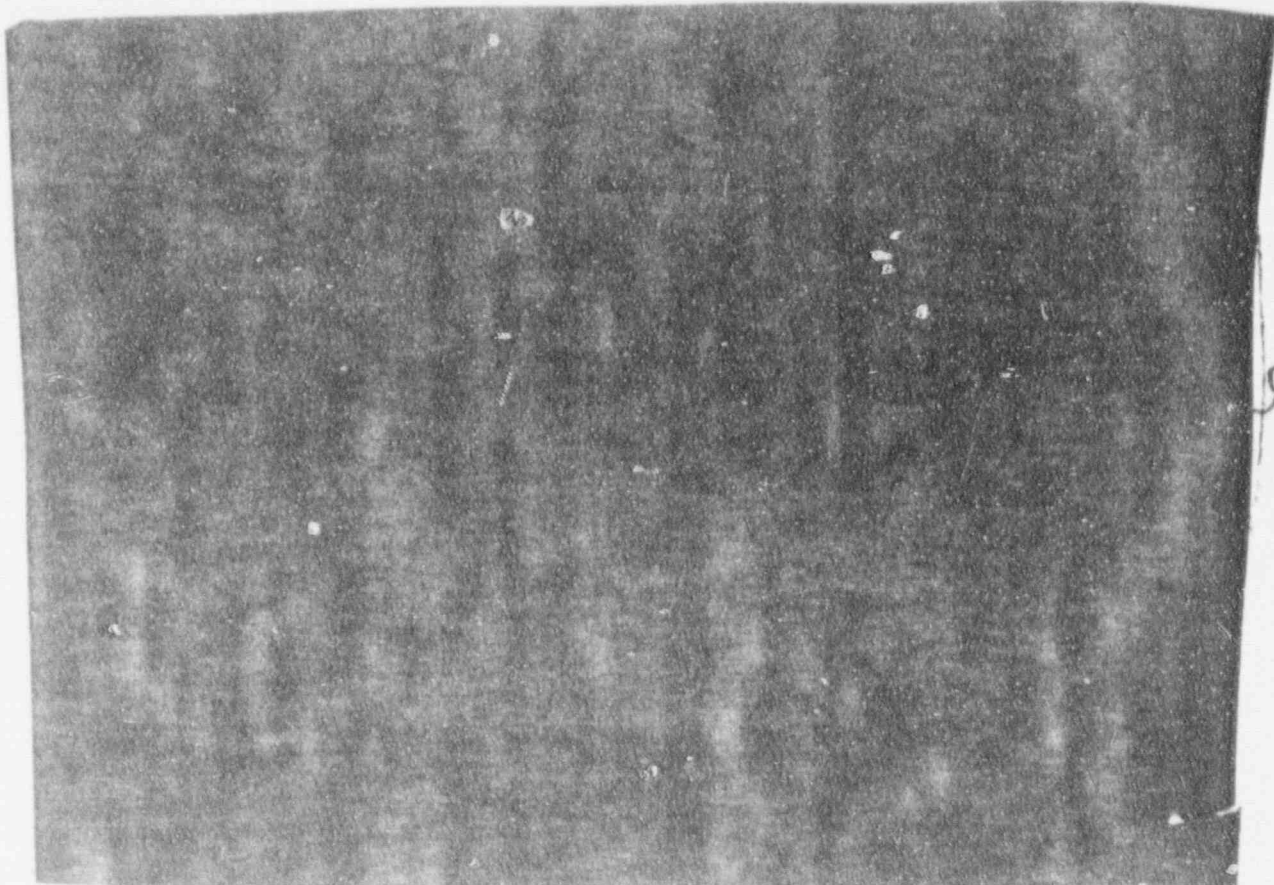
23 A (b)(7)(C) for (b)(7)(C)

24 (b)(7)(C) and (b)(7)(C) was not appealed to any

25 State or Federal agency.

6,7C portions

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Q Was the departmental procedure detailed in this memorandum connected in any way with the [REDACTED] incident?

A No. I was very intimately involved in that, in terms of writing the -- in the State of Ohio Civil Service System, and [REDACTED] whenever you suspend or dismiss someone or otherwise take economic disciplinary action, you have to file a quadruplicate suspension or removal order, which is then signed by what's called the Appointing Authority for the institution, and it is filed with several State agencies, and of course, a copy is given to the employee.

One of my responsibilities, [REDACTED] was to

6,7C portions

1 draft the suspension and removal orders, to attend the
2 administrative hearings where the department presented
3 evidence against [REDACTED], where [REDACTED] and [REDACTED] representative
4 responded to those allegations.

5 A neutral and detached hearing officer [REDACTED]
6 [REDACTED] a finding of fact, which I would
7 then transpose onto one of these removal orders and then
8 present to the Appointing Authority for signature. *6-7C*

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17 MR. PAUL: Attachment 2 is another University of
18 Cincinnati Radiation Safety Committee memorandum, dated June
19 30, 1988. It's to Radiation Safety Personnel, University of
20 Cincinnati. It's from George W. Alexander, Jr. and Kenneth
21 M. Fritz. Subject: "Problem Notification Process for
22 Radiation Safety Office Personnel."

23 This will be Attachment 2.

24 [Attachment 2 was marked for
25 identification.]

6-7C per [unclear]

1 BY MR. PAUL:

2 Q I ask you, Mr. Lodge, if you have ever seen that
3 one before.

4 A [Perusing document.]" Yes, I have.

5 Q Did you review it before it was issued?

6 A No, I did not.

7 Q Did you have any discussions with either Mr. Fritz
8 or Mr. Alexander regarding this memorandum before it was
9 issued?

10 A I had discussions with Mr. Fritz, and I believe
11 they were before it was issued.

12 Q And what was the nature of those discussions?

13 A Mr. Fritz -- he wanted to be -- basically, to cut
14 right to the case, Mr. Fritz wanted to make sure the
15 complaints came to him and nobody else. And he asked if we
16 could put together a policy -- a policy or, failing that, a
17 procedure which would require them to take allegations of or
18 reports of safety violations to him and no further.

19 Q What happened as far as the establishment of a
20 policy? Was that pursued or was that dropped?

21 A I told Ken that, as per the informal practice that
22 George Alexander and I developed, that if had a specific
23 problem that had occurred that he wished to talk about, we
24 would do that, such as the problem in the patient room that
25 I related earlier; that if we could talk about specific

1 problems, that I would be more than willing to do that but
2 that I felt that a blanket prohibition on taking complaints
3 other than to him was -- was legally problematic and advised
4 him strongly not to pursue that.

5 Q You mentioned in your answer that you had some
6 discussions with George Alexander. Was that related to this
7 specific topic?

8 A Not at this time. I did have discussions with
9 George within that 12-month period -- I think, probably, in
10 the late winter or early spring of 1989 -- about how far a
11 general policy could go about reporting violations. You
12 know, we'd always talked about specific incidents, and then,
13 early in 1989, George contacted me about putting together a
14 specific, you know, cover -- you know, one-policy-covers-
15 all-type approach to reporting -- reporting violations.

16 Q In your discussions with Alexander and Fritz, did
17 you discuss reporting problems to the Nuclear Regulatory
18 Commission at all?

19 A Yes, we did.

20 MR. RESNICK: Take them one at a time, so there is
21 no confusion.

22 THE WITNESS: Okay.

23 BY MR. PAUL:

24 Q Did you discuss with Alexander reporting safety
25 problems to the NRC?

1 A [Yes.]

2 Q In what context was that discussed?

3 A Every time we discussed any of these issues in the
4 last 5 or 6 years, I made a point of reminding George that
5 the technicians or anybody associated with the radiation
6 safety program or anybody associated with the University had
7 a statutory right and, you know, perhaps an obligation to
8 report violations to the NRC and that under no circumstances
9 should anything be put in writing which could be -- which
10 could be -- which could be inferred as suggesting otherwise.

11 I went so far as to say, clearly, you don't say
12 don't go the NRC and don't issue a blanket procedure that
13 says don't report -- don't go outside with violations,
14 because if you simply say don't go outside with violations,
15 it could be implied that you're also bringing the NRC within
16 that.

17 We talked about that specifically, each and every
18 time we were on the phone, that they have a right to go to
19 the NRC, that trying to deter them from going to the NRC is
20 going to be a problem for you if you suggest to them or they
21 get the impression that that's what you're trying to do.

22 Q In this specific memo, in the second sentence, it
23 says --

24 MR. RESNICK: You're talking about Attachment 2
25 now?

1 MR. PAUL: Attachment 2, the June 30, 1988,
2 memorandum. "Under no circumstances should any employee
3 state either policy or problems relating to radiation safety
4 to anyone within the University of Cincinnati or outside of
5 the University of Cincinnati, unless told to do so by one of
6 the above-mentioned supervisors."

7 THE WITNESS: Right.

8 BY MR. PAUL:

9 Q Did you review the specific writing in this
10 memorandum before it was issued?

11 A No, I did not.

12 Q Did you review it afterwards?

13 A I don't know when I received it.

14 MR. RESNICK: He saw it at some point, obviously.

15 THE WITNESS: I -- I have it at some -- it's in my
16 file, and I don't know when I got it.

17 BY MR. PAUL:

18 Q Did you have a discussion with George Alexander
19 relating to what you just said about that you shouldn't put
20 -- about the language restricting employees from discussing
21 with outside entities radiation safety problems? Did you
22 have that discussion with George Alexander before this
23 memorandum was issued or after? Do you recall?

24 A I had -- I had several discussions like that with
25 George before that memo was issued.

1 MR. RESNICK: Attachment 2 was issued.

2 THE WITNESS: [Yes.]

3 MR. RESNICK: Just so it's clear.

4 THE WITNESS: Yes. But I never -- just let me
5 clarify something.

6 My first discussion of a blanket prohibition on
7 outside contacts was with Ken Fritz. George always
8 contacted me with specific incidents that had occurred and
9 saying what should we do about this. Should we warn the
10 people that, in the future, these things are not acceptable?
11 And then Ken, at some point in 1988, did contact me and say,
12 hey, you know, we want to write this policy that's going to
13 be all-in^cclusive.

14 BY MR. PAUL:

15 Q Do you recall the incident that Alexander was
16 discussing with you regarding this type of situation? You
17 just said that Alexander came to you with specific problems.

18 A One would have been that patient incident I
19 related.

20 Q Okay.

21 A Another was one of the technicians that I think is
22 currently is employed, a guy by the name of Ray Estes, had
23 taken it upon himself to post "radioactive hazard" signs all
24 over a public restroom in Holmes Hospital, and you know, I
25 guess the phone was ringing off the hook in the Radiation

1 Safety Office, because you know, the staff members were
2 going in the restroom and then, you know, to be confronted
3 by this sign that says, you know, "Warning: Radiation
4 Hazard" -- you know, that is something that Ray should have
5 discussed with Ken or George before he went ahead and did
6 it. And I said, yes, you know, you go back and reiterate to
7 him, in writing, that that's the kind of thing you don't do
8 without clearing it with supervision first.

9 Those are two offhand examples of situations that
10 come to mind that I discussed -- you know, specific-type
11 potential problems that I would discuss with George.

12 Q Would you characterize this memorandum, meaning
13 Attachment 2, as departmental procedure, as opposed to
14 policy? How is it classified in the University?

15 A It's not a policy. At best, it's a departmental
16 procedure.

17 Q And were you aware that each employee was required
18 to sign this specific memo?

19 A I subsequently became aware of that, when I was
20 shown the memo for the first time.

21 Q Do you recall when that was?

22 A I do not. The copy I have does not have a date-
23 stamp on it, which would indicate to me that I did not
24 receive it through the mail.

25 My thinking is that I got it at a meeting where we

1 were discussing problems in the Radiation Safety Office,
2 sometime, many months after it was written and given to the
3 staff.

4 Q Did you ever discuss this specific memo with Dr.
5 Wiot?

6 A Yes, I did.

7 Q And could you tell me what the situation was and
8 what the discussion entailed?

9 A This was either in late July or early August --
10 well, either July or August of 1989, and Dr. Wiot called me
11 up, was quite agitated, seemed to be quite agitated, and
12 said, "Bill, I'm going to read you something," and he read
13 me that memo.

14 MR. RESNICK: Attachment 2?

15 THE WITNESS: Yes, Attachment 2, or what I
16 subsequently determined was this. I did not have it in
17 front of me, but I -- you know, it sort of all comes
18 together now.

19 He reads this thing to me, and he goes, "Bill, did
20 you approve this?" And I said, "No, Jerry, I did not." And
21 he said, "That's all I wanted to know," and he hung up, and
22 the conversation took about 90 seconds.

23 MR. RESNICK: Can I just ask something for
24 clarification?

25 MR. PAUL: Sure.

1 MR. RESNICK: When you just said that, does that
2 mean you did not have a copy of the June 30th memo when Dr.
3 Wiot called you?

4 THE WITNESS: I don't think that I did. He read -
5 - I believe he read it to me over the phone. I may be wrong
6 about that, but as I say, I don't know when I ever -- I
7 don't know when, specifically, I got a copy of this thing.

8 Maybe -- perhaps he had sent it -- perhaps he sent
9 it to me in July of '89 and said -- you know, attached a
10 note and said "I'll call you," and maybe that was a followup
11 call. I don't recall specifically. I may have had it by
12 that time.

13 BY MR. PAUL:

14 Q Do you recall any specific conversation with Ken
15 Fritz on this memorandum or the procedure?

16 A As I say, I do recall talking to Ken. I had not
17 talked to Ken in about 4 years. And Ken, if you're -- well,
18 Ken, you don't -- you don't forget conversations with Ken.
19 And he, as I say, was very interested in making sure these
20 fellows didn't go anywhere but to him.

21 You know, I -- I think he did not want them to
22 even go to the -- I think -- I think his concern was such
23 that he did not even want them going to members of the
24 Radiation Safety Committee and that he wanted to put
25 together a policy that was going to stop them or a procedure

1 that was going to stop them from even talking to, you know,
2 responsible people within the institution.

3 Clearly, he wanted to circumscribe their
4 discretion to the greatest extent possible. And I don't
5 recall his giving me any -- any sample wording or reading
6 anything to me, but that is -- that was the subject matter
7 of his call, and then, subsequently, some months later, I
8 find out this memo has been written.

9 Q Did he mention the Nuclear Regulatory Commission,
10 people going to them? Was that in any way discussed in
11 relation to this procedure?

12 A He had a thing where he interpreted the regs, and
13 I don't know if these are the NRC regs or the DOL regs,
14 offhand -- I've forgotten -- that say you should inform your
15 supervisor or the -- not your supervisor, but you should
16 inform the responsible department or office within your
17 company or institution of any safety problems. And he
18 thought that -- he was -- he had this idea that if people
19 didn't inform him first that he could discipline them if
20 they were going to the NRC.

21 I mean I remember him asking me that: Don't you
22 think that we can construe these -- these regs to the extent
23 that if they -- if they don't come to me first that we can
24 discipline them? And I said, "Ken, I really don't think so.
25 I think that's a very broad reading of the regulations, and

1 I think you're going to get in big, big trouble if you try
2 to do that. It's a suggestion, it makes sense, but I don't
3 think it gives you, no, carte blanche to do what you want if
4 you don't they have complied."

5 Q During this timeframe, did you discuss or was the
6 possibility of disciplinary action against an employee in
7 the Radiation Safety Office discussed with you over this
8 policy?

9 MR. RESNICK: Procedure?

10 MR. PAUL: Or procedure.

11 MR. RESNICK: What period of time are we talking
12 about now?

13 MR. PAUL: In the timeframe -- well, the '86 to
14 '89 timeframe.

15 THE WITNESS: If any disciplinary action was taken
16 -- I think Ray Estes was conferenced for that business with
17 the restroom, and I don't think they really contemplated any
18 tough disciplinary action. I think, probably, as far as it
19 ever went was sitting down with a tech and saying, you know,
20 like with -- you shouldn't have walked around the hall
21 complaining about that patient or the mess you had to clean
22 up.

23 Yes, there were, you know, a couple of calls, like
24 the ones I related to you, specific situations. Does this
25 violation existing University policy? In the one case, it

1 violated the University policy on the confidentiality of
2 patient records. In another case, you know, one tech had
3 clearly acted outside the scope of his authority. But as
4 far as did I ever get a phone call saying, hey, we think
5 this guy went to the NRC? I don't think so. I really don't
6 think so. I -- no, I don't recall them calling me and
7 saying, specifically, we think they've gone to the NRC;
8 we're going to get them just for that. I don't recall that.

9 BY MR. PAUL:

10 Q Regarding Attachment 2, do you recall having any
11 conversations with Dr. Silberstein regarding this procedure
12 within the Radiation Safety Office?

13 A I don't think I have ever spoken to Dr.
14 Silberstein.

15 Q Have you ever appeared before the Radiation Safety
16 Committee?

17 A Have I?

18 Q Right.

19 A No, sir.

20 Q Other than Dr. Silberstein, do you recall
21 discussing this specific procedures detailed in Attachment 2
22 with any member of the Radiation Safety Committee?

23 A Well, I discussed it with Dr. Wiot that day, and I
24 believe he is on the Radiation Safety Committee.

25 I believe I -- well, I talked to Gary Harris, who

1 is the hospital's risk manager, about an alternative policy
2 that Dr. Wiot had written. Probably about a year after this
3 was released, Gary and I had a conversation about an
4 alternative policy that Dr. Wiot had written that he and I
5 reviewed and felt was acceptable, and I think, probably, in
6 the context of that conversation, it's likely that this one
7 came up.

8 So, I would say, yes, you know, I talked to Dr.
9 Wiot about this policy in July or August of '89, and I did
10 talk to Gary Harris about an alternative policy, and we may
11 well have discussed this one, you know, sort of contrasting
12 the two procedures.

13 MR. PAUL: At this time, since you gave me the
14 lead-in, I'll show you Attachment 3, which is a University
15 of Cincinnati Radiation Safety Committee memorandum, dated
16 July 31, 1989. It's to Radiation Health Physics Technicians
17 from Jerome F. Wiot, M.D., Chairman, Radiation Safety
18 Committee. Subject: "Problem Notification Process."

19 [Attachment 3 was marked for
20 identification.]

21 BY MR. PAUL:

22 Q My first question is is this the memorandum or
23 topic you were discussing with Gary Harris that you just
24 referred to?

25 A - Yes, it is.

1 Q And did that ever become University of Cincinnati
2 policy?

3 A Not policy. But as far as I know, it is still the
4 procedure for handling violations within the Radiation
5 Safety Office.

6 Q And do you recall what -- I know you sort of
7 alluded to it, but do you specifically recall what brought
8 about this procedure?

9 The first question I have: Does the procedure
10 detailed in Attachment 3 supercede the procedure in
11 Attachment 2?

12 A I would say yes, because one is signed by Jerry
13 Wiot and the other is signed by George Fritz and Ken
14 Alexander. I think, pretty clearly, it does. Certainly, if
15 I worked in that department, I would assume that without
16 much difficulty.

17 Q And what brought about the issuance of Attachment
18 3?

19 MR. RESNICK: If you know.

20 MR. PAUL: If you know.

21 THE WITNESS: Well, Gary Harris called me
22 somewhere between -- probably in the first half of 1989 and
23 said -- well, Alexander had written me a memo, I think in
24 March of '89, saying we need to develop this policy, we need
25 to develop the policy, and he had copies of the regs

1 attached, and he said, "What can we do under these regs?"
2 So, he is -- so, basically, he is coming to me in writing,
3 in essence, asking the same thing that Fritz had asked of
4 me, probably 9 months before, over the phone. And you know,
5 it was -- it was a reasonable request. You know, he seemed
6 to simply -- and he had attached the regs, and he seemed to
7 simply want to put something sort of global in writing for
8 everybody's guidance.

9 I, you know, did not follow up in a timely
10 fashion. We had three labor contracts open in the first 6
11 months of that year, and I advised George over the phone
12 that I probably would not get to it anytime soon.

13 Subsequently, probably 8, 10 weeks later, Gary
14 Harris called me and said, you know, Dr. Wiot has asked that
15 I -- that I -- and Gary Harris is on the Radiation Safety
16 Committee -- said, "Dr. Wiot has asked that I follow up and
17 take care of this. We have a draft. You know, rather than
18 have you do it from scratch, I've got a draft here." And I
19 don't know if Wiot wrote it himself or whether Dr. Wiot and
20 Gary Harris collaborated on it, but that is -- that is
21 Attachment No. 3, and that is what Gary and I discussed
22 briefly and approved as appropriate under the regulations.

23 Q Was there any discussion as to why there was --
24 you were superseding attachment two?

25 A I don't specifically remember if we discussed

1 attachment two. I said earlier that he and I might have
2 discussed it, but I don't recall specifically. I'm not even
3 sure that I was aware of the existence of attachment two at
4 that time. I couldn't say to a certainty that I knew this
5 thing existed at that time.

6 Q I guess then, the question would be which of the
7 three memos is current University procedure within the
8 Radiation Safety Office; do you know? Are they all three
9 still valid?

10 A I would feel that the -- for two reasons: (1)
11 because it's the -- the most recent chronologically --
12 attachment three, because it's the most recent
13 chronologically and because it is from the Chairman of the
14 Radiation Safety Committee, whose authority supercedes both
15 Mr. Alexander and Mr. Fritz.

16 Q Going on to another area.

17 Did you participate in the suspension of Mr. Fritz
18 or Mr. Jason?

19 A I was not directly involved in meeting with them
20 when they were placed on -- placed on leave. Neither one of
21 them has been suspended. They're both still being paid.

22 But, no -- I did not meet with them specifically,
23 to place them on leave.

24 Q Did you participate at all in any type of
25 investigation as to the circumstances which led up to their

1 being placed on leave?

2 A No. By the time it got to me, it was -- by the
3 time it got to me, the decision to put them on leave was a
4 fait accompli. I mean, it was presented to me that this is
5 going to happen; and then subsequently, you or someone in
6 your office is going to have to come in and investigate all
7 the circumstances and make a recommendation as far as, you
8 know, disciplinary action.

9 Q Mr. Lyons, have I or any other NRC representative
10 here threatened you in any manner, offered you any rewards
11 in return for this statement?

12 A No.

13 Q Have you given this statement freely and
14 voluntarily?

15 A Yes.

16 MR. RESNICK: Sort of.

17 [Laughter.]

18 MR. RESNICK: He had to come downtown, leave his
19 job. I'm just being facetious. I'm sorry, I couldn't
20 resist.

21 MR. PAUL: And before we answer this, you might
22 want to talk to Mr. Resnick.

23 Is there anything further you care to add for the
24 record?

25 MR. RESNICK: Yes. Why don't we step out.

1 MR. PAUL: Okay, we'll go off the record here.

2 [Discussion held off record.]

3 MR. PAUL: Any?

4 MR. RESNICK: He doesn't have anything to ask.
5 I've got a clarification to ask about attachment
6 two?

7 MR. PAUL: Okay.

8 MR. RESNICK: If that's all right.

9 Do you have a copy of that there?

10 MR. PAUL: Right there is attachment two.

11 EXAMINATION

12 BY MR. RESNICK:

13 Q Mr. Lodge, there were some questions earlier about
14 when you received attachment two. And I believe you
15 responded that you could not, with certainty, say when you
16 received it. What I'm interested in is your best
17 recollection, as you sit here today, when you received the
18 document that's attachment two to the deposition?

19 A Well, I -- as best I -- would have been one of two
20 general time frames. Number one would have been in the
21 spring or summer of 1989, when I discussed attachment three
22 or the potential implementation of attachment three with
23 Gary Harris; which, as I say, would have been somewhere in
24 the May to July timeframe of 1989.

25 And the second possibility is after both Mr. Fritz

1 and Mr. Jason were relieved of responsibility -- that in my
2 follow-up on what exactly they had done, that I may have
3 come into possession of the memo after they were placed on
4 leave, that's all I had.

5 Q In your discussions you had with Mr. Alexander and
6 Fritz weren't specifically based on this memorandum?

7 A No.

8 Q The conversations you detailed earlier?

9 A No.

10 Q It was just a situation, or was it an inquiry by
11 either Mr. Fritz and Mr. Alexander as to a set of specific
12 circumstances?

13 A No. The inquiry by Mr. Fritz was not a specific
14 circumstance. It was a very broad -- can we circumscribe
15 their reporting possibilities very strictly, without --
16 there weren't -- nothing had happened that I know of.

17 He just called up one day and said, "hey, can we
18 make these guys report everything to me or else -- and
19 nobody else." And I said, "Ken, is there anything in
20 particular we want to talk about?" And he did not have
21 anything in particular. And that was in probably, June of
22 '88.

23 Q Okay.

24 Just to clarify that. And what did you respond to
25 him?

1 A I said, "no, absolutely not." That, you know,
2 "let's talk about specifics." But nothing -- no general
3 prohibitions.

4 Q Okay.

5 MR. PAUL: Okay. The interview is concluded.

6 [The interview was concluded at 2:42 p.m.]"
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REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission

in the matter of:

NAME OF PROCEEDING: Investigative Interview

DOCKET NUMBER:

PLACE OF PROCEEDING: Cincinnati, Ohio

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.


Lincoln Davis

Official Reporter
Ann Riley & Associates, Ltd.



University of Cincinnati
Radiation Safety Committee

Mail Location #591
Telephone (513) 872-4115

234 Goodman Street
Cincinnati, Ohio 45267-0591

1 July 1986

TO: Radiation Safety Office Personnel
University of Cincinnati

FROM:

George W. Alexander, Jr.
George W. Alexander, Jr.
Administrative Director

Kenneth R. Fritz
Kenneth R. Fritz
Radiation Safety Officer

SUBJECT: Proper channel of communications for
Radiation Safety Office Personnel

University of Cincinnati Policy dictates that you must report all problems first to your immediate supervisor. Your immediate supervisor is the Deputy Radiation Safety Officer - Mr. Prince Jason. Problems relating to Radiation Safety which have not been addressed by the Deputy Radiation Safety Officer should be directed to the Radiation Safety Officer - Mr. Kenneth R. Fritz. Administrative Matters should be directed to the Administrative Director - Mr. George Alexander. All correspondence including anything that has financial implications should be directed to the Administrative Director.

In the event that the Radiation Safety Officer and/or Administrative Director deem it necessary to direct problems to the Chairperson of the Radiation Safety Committee or the Radiation Safety Committee, it is their job to perform this function.

In the event that any member of the Radiation Safety Office staff deters from this procedure, it is grounds for disciplinary action. Further, University Policy states that unauthorized discussion of information pertaining to students, patients or other employees of the University with friends, relatives, the general public or the news media is considered inappropriate behavior, and that it shall result in disciplinary action up to and including immediate discharge.

Take pride in your office. Do not encourage conversation regarding what is happening in this area. If you spread derogatory information elsewhere, you can only hurt yourselves, - the Radiation Safety Office of the University of Cincinnati.

GWA/sk

Duplicate of

University of Cincinnati
Radiation Safety Committee

234 Goodman Street
Cincinnati, Ohio 45267-0591

Mail Location #591

Telephones:

Radiation Safety Office 558-4110
Administration 558-9081

36

June 30, 1988

TO: Radiation Safety Personnel
Univ. of Cincinnati

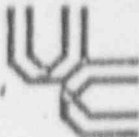
FROM: George W. Alexander, Jr., B.S. *G.W.A.*
Kenneth M. Fritz, M.S. *K.M.F.*

SUBJECT: Problem Notification Process for
Radiation Safety Office Personnel

In the event that there are any problems related to Radiation Safety Office programs, Radiation Health Technicians must notify either the Deputy Radiation Safety Officer, Radiation Safety Officer or Administrative Director of Radiation Safety immediately. Under no circumstances should any employee state either policies or problems related to radiation safety to anyone within the University of Cincinnati or outside of the University of Cincinnati unless told to do so by one of the above mentioned supervisors. Please be reminded that the Radiation Safety Committee makes radiation safety policies for the University, and we act upon the provisions of our NRC Broad License. Your specific jobs are to comply with assigned duties from the supervisors. In the event that there is a discrepancy related to this policy by an employee, disciplinary action will be taken.

NAME

DATE



University of Cincinnati
Radiation Safety Committee

234 Goodman Street
Cincinnati, Ohio 45267-0591

Main Location #591

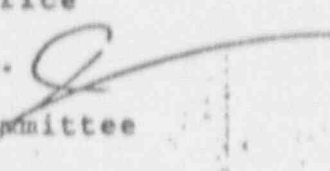
Telephones:

Radiation Safety Office 558-4110
Administration 558-9081

37

July 31, 1989

TO: Radiation Health Physics Technicians
Radiation Safety Office

FROM: Jerome F. Wiot, M.D. 
Chairman
Radiation Safety Committee

SUBJECT: Problem Notification Process

The following problem notification process was approved by the Radiation Safety Committee of the University of Cincinnati at its July 25, 1989 meeting:

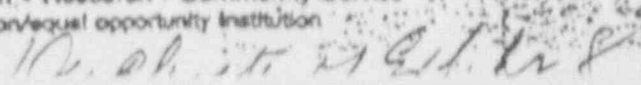
"If, in the opinion of any of the Health Physics Technicians a significant breach of safety has occurred or a significant potential hazard exists in relation to radiation or radioactive materials both in their use and their disposal within the University, this concern should be submitted in writing to the Radiation Safety Officer (and in his absence the Deputy Radiation Safety Officer), with a copy to the Chairman of the Radiation Safety Committee. It will be the responsibility of the Radiation Safety Officer to address this concern, take appropriate action and report in writing to the Chairman of the Radiation Safety Committee within thirty days of the filing of the initial concern as to the disposition of the concern.

All such reports will be brought to the next scheduled Radiation Safety Committee meeting as an information issue, and for discussion and action as indicated."

To further clarify this process, the route of complaints which the technicians should follow is: complaints are first presented in writing to the Radiation Safety Officer, Mr. Fritz, (and in his absence the Deputy Radiation Safety Officer, Mr. Jason), and copied to the Chairman of the Radiation Safety Committee, Dr. Wiot. Mr. Fritz is to respond, taking appropriate action and reporting in writing to the Chairman of the Committee within 30 days of the initial complaint. All such actions are to be reported to the Committee at the next regularly scheduled meeting; it should be noted, however, that an emergency meeting may be called at the discretion of the Chairman.

JFW/sk

cc: Mr. Kenneth M. Fritz
Mr. George Alexander



REPORT OF INTERVIEW
WITH
MELVIN L. BOYD

On January 25, 1990, Melvin L. BOYD was interviewed by NRC:OI Investigators Richard C. Paul and Mary Kay Fahey. BOYD was interviewed at the University of Cincinnati Medical Center's Radiation Safety Office, 234 Goodman, Cincinnati, Ohio.

BOYD said he has been employed at University of Cincinnati Medical Center (UCMC) in the Radiation Safety Office since May 30, 1988. BOYD said his current position is as a Senior Health Physics Technician. BOYD said he has a Masters Degree in Health Physics from Purdue University and worked in Purdue University's Radiation Safety Office.

BOYD said that Ken FRITZ was the Radiation Safety Officer (RSO) at UCMC until August 1989, when he was suspended.

Regarding the August 1989 NRC:RIII inspection of UCMC, BOYD recalled that he had been interviewed by Toye SIMMONS and Wayne SLAWINSKI, RIII inspectors. BOYD said he had been interviewed individually by the inspectors in the basement of the Nuclear Medicine Department.

BOYD said everyone within Radiation Safety Office performed sealed source surveys. The inventory cards for these sources were kept in Prince JASON's office, according to BOYD. BOYD identified JASON as the Deputy RSO. BOYD said the health physics technicians knew the schedule for surveying the sealed sources. BOYD said the surveys were documented on these inventory cards by the technician. BOYD said JASON would give the inventory cards to the technicians at the time of the survey. Upon completion of the survey the technician would record the sealed source's serial number, complete the required calculations and would fill out the inventory card. BOYD said some technicians took the cards into the field with them for the surveys, others would just complete the documentation in the office.

BOYD recalled that on one occasion, during the summer of 1988, he was assigned to do a source survey for a Ni-63 source. BOYD said he was issued the inventory card which identified that the source was suppose to be located in Whearly Hall and in the possession of Dr. Henry TAN and David FRASER. The inventory card indicated that the source was "in storage" as of early 1988. BOYD said this meant the source's strength may have been below the regulatory requirements for survey. BOYD said he was unable to locate the source and had conversations with TAN, FRASER, and FRITZ, and it was determined that FRITZ would handle the matter. BOYD said he never initialed the inventory card for this source. According to BOYD, UCMC procedures required a survey of sources every six months. BOYD said this was the only incident of a lost source that he was aware of.

BOYD said he recalled that in August 1988, D. R. GIBBONS from NRC:RIII conducted an inspection at UCMC. BOYD said GIBBONS was at UCMC for approximately one week. BOYD said that about the time of the review of the inventory cards by GIBBONS, JASON, the Deputy RSO, handed him one or two sealed source inventory cards and instructed him "to do something with these."

EXHIBIT 10

PAGE 1 OF 3 PAGE(S)

BOYD said he put the cards in his desk drawer. BOYD stated he did not know why JASON had given him the inventory cards.

BOYD said the technicians were instructed by FRITZ to make "themselves scarce" while GIBBONS was on site. BOYD said that he and the other technicians gave "everything but red flags" to GIBBONS, indicating that they wanted to talk with him. BOYD said GIBBONS did not interview any of the technicians during his inspection.

BOYD characterized the record keeping relating to the sources as not being very organized and the problem of missing sources and records as existing for the last ten to fifteen years. BOYD felt that the NRC let the problem go on because of the relationship the NRC had with Dr. SAENGER.

INVESTIGATOR'S NOTE: Dr. SAENGER was a medical consultant to NRC:RIII.

BOYD said that the technicians' concerns reached a point where in December 1988 or January 1989, the technicians appeared before the Radiation Safety Committee (RSC). BOYD identified the technicians involved as himself, Ray ESTES, Jeff BARBRO, and Pat HARRIS. At the meeting BOYD said the technicians brought up concerns related to commercial use of the NRC license by FRITZ and others, adherence to the NRC Regulatory Guides, administrative conflicts with George ALEXANDER, a union for the employees, Department of Transportation regulations, and lack of "NSB" standards. BOYD said these concerns were documented in memorandum to the RSC.

BOYD said the the meeting with the RSC was documented in the RSC minutes and the RSC formed a subcommittee to look into the issues brought up by the technicians. BOYD opined that he felt the subcommittee was "dragging their feet," and the outcome of all this had been no action except the creation of paperwork so that FRITZ could leak test sources outside UCMC. Regarding the responsibilities for the events going on during this time frame, BOYD felt that FRITZ was only doing what he was told to do by SAENGER and KERIAKES. BOYD described FRITZ as being the RSO in name only. BOYD said that the hospital knew FRITZ was not qualified to be RSO.

According to BOYD, in 1988 ALEXANDER called a meeting with the technicians about the bad publicity UCMC had received over the matter. BOYD 6.7c said to prevent further adverse publicity, ALEXANDER distributed a document which required that they keep all their concerns internal to UCMC. BOYD referred to the document as a "gag order". BOYD said he read the document and told ALEXANDER that he thought the document was a violation of NRC regulations. BOYD indicated that he was then told he was required to sign the document which he did. BOYD said that during the review of UCMC by NES, Bob BURGIN from NES obtained a signed copy of the "gag order."

BOYD said he was never asked to falsify records, because "they (FRITZ & JASON) did it." BOYD described JASON as being involved in the problems at UCMC because he was management but felt that JASON was caught in the middle between the technicians and FRITZ. BOYD said JASON's position as Deputy RSO was created to keep JASON out of the union.

BOYD recalled that [REDACTED] for posting a contaminated
restroom with radioactive signs. 6.7c

This report of interview was prepared on January 30, 1990.

Richard C. Paul

Richard C. Paul, Investigator
Office of Investigations
Field Office, Region III

Mary K. Fahey

Mary K. Fahey, Investigator
Office of Investigations
Field Office, Region III