

MAR 12 1984

MEMORANDUM FOR: Dale R. Collins, Chief
Staffing & Position Evaluation Branch
Division of Organization & Personnel
Office of Administration

FROM: Polly Schofield, Program Assistant ^{15/}
Office of Investigations

SUBJECT: 1984 SUMMER EMPLOYMENT PROGRAM

Reference our memorandum of February 28, 1984, in which we expressed interest in a summer clerical, please revise our request. OI is also interested in obtaining a summer management intern. This intern would need to be enrolled in a field of study pertaining to law enforcement or criminal justice.

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

March 14, 1984

A. H. W.

The Honorable Tom Beville, Chairman
Subcommittee on Energy and Water
Development
Committee on Appropriations
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

The House Committee on Appropriations, in its report on the Energy and Water Development Appropriations Bill, 1984, directed that NRC report to the Committee regarding the interrelationship of the Office of Investigations and the Office of Inspection and Enforcement. The NRC was also to report on what legal problems exist that might prevent the publishing of the policies and procedures of the Office of Investigations (H.R. 98-217, at p. 138).

The requested report is enclosed.

Sincerely,

Nunzio J. Palladino
Nunzio J. Palladino

Enclosure:
As stated

cc: Rep. John T. Myers

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PDR/Comms/NREC

REPORT ON THE INTERRELATIONSHIP BETWEEN NRC'S
OFFICE OF INVESTIGATIONS AND OFFICE OF INSPECTION
AND ENFORCEMENT

THE HOUSE COMMITTEE ON APPROPRIATIONS, IN ITS REPORT ON THE ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL, FY 1984, DIRECTED THAT NRC REPORT TO THE COMMITTEE REGARDING THE INTERRELATIONSHIP OF THE OFFICE OF INVESTIGATIONS (OI) AND THE OFFICE OF INSPECTION AND ENFORCEMENT (IE). THE NRC WAS ALSO TO REPORT ON WHAT LEGAL PROBLEMS EXIST THAT MIGHT PREVENT THE PUBLISHING OF THE POLICIES AND PROCEDURES OF THE OFFICE OF INVESTIGATIONS (H.R. 98-217, AT P. 138).

I. INTERRELATIONSHIP BETWEEN OI AND IE

A. OFFICE OF INSPECTION AND ENFORCEMENT

THE OFFICE OF INSPECTION AND ENFORCEMENT DEVELOPS AGENCY POLICIES AND PROCEDURES FOR INSPECTION AND ENFORCEMENT, QUALITY ASSURANCE, EMERGENCY PREPAREDNESS AND INCIDENT RESPONSE. MOST OF THE ACTUAL INSPECTIONS ARE CONDUCTED UNDER THE SUPERVISION OF THE REGIONAL ADMINISTRATORS WHO REPORT DIRECTLY TO THE EXECUTIVE DIRECTOR FOR OPERATIONS (EDO). THE DIRECTOR OF IE, WHO ALSO REPORTS TO THE EDO, PROVIDES GUIDANCE TO THE REGIONAL OFFICES ON INSPECTION AND ENFORCEMENT PROGRAM MATTERS AND APPRAISES PROGRAM PERFORMANCE IN TERMS OF EFFECTIVENESS AND UNIFORMITY.

THE INSPECTION PROGRAM HAS TWO PARTS, A PRESCRIBED PROGRAM OF PERIODIC REVIEW OF SPECIFIC TECHNICAL AREAS AND A REACTIVE PROGRAM IN RESPONSE TO EVENTS AND PROBLEMS. INSPECTIONS CONSIST OF DIRECT OBSERVATIONS OF LICENSED ACTIVITIES, REVIEW OF REPORTS AND DOCUMENTATION, AND DISCUSSIONS WITH PLANT PERSONNEL. AN INSPECTION REPORT IS WRITTEN TO SUMMARIZE THE SCOPE OF AN INSPECTION AND TO DOCUMENT ITEMS OF NONCOMPLIANCE WITH NRC REQUIREMENTS. INSPECTION REPORTS ARE USED BY NRC IN MAKING LICENSING AND ENFORCEMENT DETERMINATIONS. AN IMPORTANT ASPECT OF THESE DETERMINATIONS IS THE IDENTIFICATION AND SOLUTION OF GENERIC PROBLEMS.

ENFORCEMENT ACTIONS TAKEN IN RESPONSE TO NONCOMPLIANCE WITH NRC REQUIREMENTS RANGE FROM NOTICES OF VIOLATION TO MONETARY CIVIL PENALTIES AND ORDERS REVISING LICENSES.

B. OFFICE OF INVESTIGATIONS

THE OFFICE OF INVESTIGATIONS, WHICH BECAME OPERATIONAL IN JULY 1982, HAS BASICALLY ONE PROGRAMMATIC FUNCTION -- TO PERFORM INVESTIGATIONS. AN INVESTIGATION IS THE COLLECTION OF FORMAL TESTIMONY

AND DOCUMENTARY EVIDENCE. INVESTIGATIONS ARE CONDUCTED IN RESPONSE TO ALLEGATIONS FROM INDIVIDUALS, INSPECTION FINDINGS, AND REPORTS FROM LICENSEES OR VENDORS. THE PRINCIPAL FOCUS OF AN OI INVESTIGATION, IN CONTRAST TO AN INSPECTION, IS TO DETERMINE WHETHER VIOLATIONS OF NRC REQUIREMENTS WERE PURPOSEFUL OR WILLFUL RATHER THAN ACCIDENTAL OR NEGLIGENT. INVESTIGATIVE INFORMATION IS COMPILED IN A DETAILED REPORT OF INVESTIGATION. SIMILAR TO INSPECTION REPORTS, REPORTS OF INVESTIGATION ARE USED BY NRC IN MAKING LICENSING AND ENFORCEMENT DETERMINATIONS.

THE DIRECTOR OF OI, WHO REPORTS TO THE COMMISSION, DIRECTS THE ACTIVITIES OF INVESTIGATORS WHO ARE LOCATED BOTH IN HEADQUARTERS AND IN THE REGIONAL OFFICES.

C. INTERFACES

THE DECISION TO CONDUCT AN INVESTIGATION RATHER THAN AN INSPECTION IS BASED ON A DETERMINATION OF APPARENT WRONGDOING. THE MECHANISM FOR THIS DETERMINATION IS A JOINT EVALUATION BY INVESTIGATION AND INSPECTION PERSONNEL AT THE OUTSET. FURTHER, IN THE COURSE OF AN

INSPECTION, IF WRONGDOING IS SUSPECTED, AN INVESTIGATION IS INITIATED.

IN CERTAIN CIRCUMSTANCES THAT REQUIRE AN UNDERSTANDING OF COMPLEX TECHNICAL ISSUES, INSPECTION PERSONNEL ASSIST IN THE INVESTIGATION. THROUGHOUT THE CONDUCT OF AN INVESTIGATION, OI ROUTINELY BRIEFS INSPECTION PERSONNEL AND OTHER INVOLVED NRC OFFICES.

UPON COMPLETION OF AN INVESTIGATION THE REPORT OF INVESTIGATION IS TRANSMITTED THROUGH THE EDO TO IE, THE COGNIZANT REGIONAL ADMINISTRATOR, AND THE LICENSING OFFICE. THESE REPORTS OF INVESTIGATION ARE USED IN LICENSING AND ENFORCEMENT DETERMINATIONS AND ADDITIONALLY MAY BE REFERRED TO THE DEPARTMENT OF JUSTICE.

D. NEED FOR TWO OFFICES

THE PURPOSES AND FUNCTIONS OF THE TWO OFFICES DIFFER. I&E INSPECTS PRIMARILY TO ENSURE COMPLIANCE WITH TECHNICAL REQUIREMENTS WHILE OI'S INVESTIGATIONS ARE SIMILAR TO A LAW ENFORCEMENT FUNCTION. THE COMMISSION BELIEVED THAT IT WAS NECESSARY TO SEPARATE THE INVESTIGATION AND INSPECTION FUNCTIONS FOR A NUMBER OF

REASONS. A SEPARATE AND INDEPENDENT OI ALLOWS BOTH INSPECTORS AND INVESTIGATORS TO FOCUS ON WHAT THEY DO BEST. IT ALSO ALLOWS THE COMMISSION TO ESTABLISH A STRONG AND PROFESSIONAL INVESTIGATIONS OFFICE. FURTHER, BY ESTABLISHING A COMMISSION LEVEL OI, THE COMMISSION EMPHASIZED THE IMPORTANCE OF DETERMINING WHEN VIOLATIONS ARE PURPOSEFUL OR WILLFUL RATHER THAN UNINTENTIONAL. THE COMMISSION'S INSPECTION FUNCTIONS ARE NECESSARILY AUDITING FUNCTIONS, AND LICENSEES MUST BE RELIED UPON TO FOLLOW NRC REQUIREMENTS. THE COMMISSION MUST, THEREFORE, HAVE THE CAPABILITY TO DETERMINE WHEN A LICENSEE IS WILLFULLY VIOLATING NRC REQUIREMENTS AND TAKE STRONG ACTION TO REMEDY THE SITUATION. -

II. RELEASE OF OI POLICIES AND PRACTICES

THERE ARE NO LEGAL PROHIBITIONS AGAINST THE RELEASE OF OI POLICIES AND PRACTICES. OI POLICIES HAVE BEEN PUBLICLY AVAILABLE FOR SOME TIME (ENCLOSURE 1). HOWEVER, SOME INVESTIGATIVE PRACTICES AND TECHNIQUES SET FORTH IN MANUALS, POLICIES OR OTHER DOCUMENTS MAY LEGALLY BE WITHHELD FROM PUBLIC DISCLOSURE.

THERE ARE STRONG PUBLIC POLICY REASONS FOR WITHHOLDING CERTAIN DETAILS OF INVESTIGATIVE PRACTICES AND TECHNIQUES. FOR INSTANCE, WRITTEN INVESTIGATIVE PROCEDURES MAY DETAIL THE TYPE OF INFORMATION INVESTIGATORS LOOK FOR TO ESTABLISH REGULATORY VIOLATIONS. SIMILARLY, THEY MAY DESCRIBE THE METHODS TO BE USED IN CONDUCTING INVESTIGATIONS AND DETERMINING WHOM TO INTERVIEW, AND IN WHAT ORDER. PUBLIC DISCLOSURE OF INFORMATION SUCH AS THIS COULD ALLOW POSSIBLE VIOLATORS TO HAMPER THE INVESTIGATOR'S EFFORTS, FOR EXAMPLE, BY MAKING CERTAIN WITNESSES OR RECORDS UNAVAILABLE FOR SOME PERIOD OF TIME.

OI HAS REVIEWED ITS CURRENT INVESTIGATIVE PROCEDURES MEMORANDA (IPM) AND DETERMINED THAT ALL BUT ONE IPM MAY BE RELEASED TO THE PUBLIC WITHOUT CAUSING ANY HARM TO FUTURE INVESTIGATIONS. THE ONE THAT SHOULD BE WITHHELD DEALS WITH THE INFORMATION NECESSARY TO ESTABLISH WILLFUL REGULATORY VIOLATIONS. ENCLOSURE 2 CONTAINS THE 14 IPMS OI BELIEVES CAN BE RELEASED.

01 POLICY STATEMENTS

Enclosure 1

POLICY 1

OI will perform thorough, timely and objective investigations. This will include investigations of allegations of wrongdoing by individuals or organizations, other than NRC employees or NRC contractors, which are within the scope of NRC authority.

POLICY 2

OI investigations will be conducted in accordance with general procedures and practices of other investigatory agencies.

POLICY 3

OI investigators may be delegated authority to administer oaths or affirmations during the course of OI investigative efforts.

POLICY 4

OI investigations may be initiated at the request of the Commission, the EDO, or a Regional Administrator, or on the initiative of the Director, OI. The Director, OI, will promptly inform the Chairman of all investigations commenced by OI.

POLICY 5

The criteria established for initiating an inspection or an investigation do not preclude concurrent conduct of both types of activity.

POLICY 7

OI investigators may grant requests for confidentiality during the course of an investigation. NRC will respect an OI investigator's promise of confidentiality unless and until the interviewee's testimony is required for an administrative or judicial proceeding or the interviewee discloses the testimony. The identity of persons not subject to the reporting requirements of 10 CFR Part 21 who report to the Commission information addressed by that regulation will also be accorded confidentiality as required by 10 CFR 21.2.

POLICY 8

Investigators and others assigned to OI investigations shall identify, collect, and preserve evidence relevant to investigations which would have potential value in an enforcement or other proceeding. When necessary, OI may request orders or subpoenas to preserve or obtain such evidence.

POLICY 9

Investigators and others assigned to OI investigations shall attempt, when warranted by the importance to the investigations, to witness and/or photographically record the violation or condition that is the focus of the investigation.

POLICY 10

Investigators and others assigned to OI investigations will be alert for indications of deliberate violations of NRC regulations or Federal statutes and will pursue relevant leads. They will also make reasonable efforts to determine the extent of involvement or awareness by management of licensees, applicants, vendors or other entities in any instances of deliberate violation of NRC regulations or Federal statutes.

POLICY 11

Other NRC components will provide OI with timely legal and technical assistance consistent with its impact on the overall NRC mission.

POLICY 12

OI may use the investigative support of Federal, State or local agencies or other organizations during the course of OI investigations.

POLICY 13

The Office of Inspector and Auditor (OIA) shall be the primary office responsible for referral, and related discussions of investigative matters with the Department of Justice (including the U.S. Attorneys and the Federal Bureau of Investigation). Emergency situations requiring prompt field referral to the DOJ and/or FBI should be made without delay or consultation with OIA. Referrals for prosecution or investigation, inquiries or the transmittal of investigative information to these agencies shall be promptly documented in writing with copies provided to offices concerned.

POLICY 14

Investigative activity of OI may occasionally develop information within the jurisdiction of another agency. This information will be routinely provided to that agency under appropriate controls.

POLICY 15

OI shall keep NRC components which request OI investigations informed of significant developments in ongoing investigations.

POLICY 16

The requestor of an OI investigation and any NRC component aware of such ongoing investigation shall advise OI of any additional information it receives/develops during the pendency of the investigation.

POLICY 17

OI shall advise cognizant NRC components of safety issues discovered as the result of an ongoing OI investigation.

POLICY 18

With the exception of significant safety issues, information regarding an ongoing OI investigation will not be disclosed by any NRC employee outside NRC without the specific approval of the Director, OI, or his designee.

POLICY 19

Investigators and others assigned to an OI investigation or inquiry will normally not discuss the substance of ongoing OI inquiries and investigations with licensees or other non-NRC personnel in entrance or exit interviews, except safety items requiring immediate corrective action.

POLICY 20

Investigators will thoroughly and accurately document their investigative efforts and substantive information developed during investigation.

POLICY 21

OI investigative reports shall be in sufficient detail to permit an informed managerial review of the issues under investigation, and to permit an NRC determination as to the need for enforcement or other corrective actions.

POLICY 22

Reports of Investigation (ROI) prepared by OI investigators should contain an objective recitation of all relevant facts developed in the course of the investigation. They should not contain either the opinions or conclusions of the investigators. Opinions or conclusions of persons interviewed are permissible, however. In a memorandum transmitting the Report of Investigation to the NRC action office, OI management will normally include overall conclusions regarding what OI believes occurred in the matter investigated or its opinion as to the weight of the evidence. OI will not make a determination as to whether the occurrence constitutes a violation or furnish recommendations for enforcement/corrective action.

POLICY 23

OI reports of investigation, while in preparation or review, will not be circulated outside NRC without specific approval of the Chairman.

POLICY 24

OI reports of investigation, while in preparation or review, will normally not be circulated to other NRC offices. In those cases where OI perceives the existence of safety questions requiring prompt attention or determines that it would be of substantial benefit to the accuracy of the final report, OI may have other NRC officials review, and comment on pertinent portions of the report. Final OI investigative reports will be provided to the appropriate NRC officials.

POLICY 25

The Office of Inspector and Auditor retains responsibility for investigations regarding NRC employee and contractor misconduct and internal waste, fraud and abuse.

POLICY 26

OI shall be informed promptly by NRC employees of all allegations which involve wrongdoing, other than allegations of wrongdoing on the part of NRC employees or NRC contractors, which are the responsibility of OIA.

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-001

SUBJECT: INVESTIGATIVE PROCEDURE MEMORANDA

OBJECTIVE

To define and outline the use of Investigative Procedure Memoranda (IPMs)

GENERAL POLICY

IPMs are issued by the Director of OI. IPMs will be assigned an identification number consisting of two digits representing the calendar year of issuance followed by a sequential number, e.g., 82-001, 82-002, etc. IPMs will remain in effect until rescinded, modified, or incorporated in the OI Manual. (Specific OI:HQ case guidance will be provided, as needed, by memorandum.)

PURPOSE

An IPM is a mechanism by which OI:HQ can transmit investigative guidance throughout OI in a prompt manner. IPMs are meant to express general guidance regarding investigative procedures or techniques such as Oaths and Affirmations, Collection of Evidence, or Subpoenas.

DEVIATIONS FROM IPMS

Unless specifically stated to the contrary in the IPM itself, OI investigators or others assigned to OI investigations may deviate from the IPMs so long as the deviation does not lead to a violation of the rights of the persons under investigation or to limitation of NRC options regarding enforcement or correction of unsafe conditions. Normally the OI investigator will first discuss such deviations with the appropriate Field Office Director, but when necessary the proposed deviation may be brought to the attention of the Director, Division of Field Operations for approval. The reasons for any substantial deviations from the guidance provided in IPMs should be documented either in the report of investigation or in a separate memorandum to the file.

IMPROVING IPMS

All OI personnel are encouraged to bring to the OI Director's attention suggested improvements to existing IPMs and topics which would be appropriate for coverage in IPMs.

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-002

SUBJECT: CONTACTS WITH NEWS MEDIA

OBJECTIVE

To promulgate specific guidelines for the release of information to the news media by OI personnel.

CAUTION

Instructions set forth in the IPM are not to be construed as contradicting any other stated NRC policy enunciated elsewhere governing the confidentiality of information encountered by OI employees within the scope of their official duties. Examples of such other policies include the protection of proprietary information, safeguards information, and national security information.

GENERAL POLICY

Fairness, accuracy, and sensitivity to the rights of individuals and organizations involved in OI investigations, as well as to the public's right to know, must prevail in all dealings with the news media. No OI employee should knowingly furnish an erroneous, deceptive, or misleading answer to a news media inquiry. Generally OI managers, in consultation with HQ and/or Regional Public Affairs Officers, handle all contacts with the news media; such managers should be as responsive as practical and as possible, giving proper consideration to whether providing information may adversely affect either the rights of others or interfere with the successful completion of the investigation. The reporter should be told if questions cannot be answered for the above reasons.

Note that other NRC employees assigned to or otherwise knowledgeable of OI investigations will be considered to be OI personnel for the purposes of this IPM.

The term "No comment" should be avoided. If an OI manager does not know the answer to a reporter's question, the manager should say, "I don't know," and depending upon the nature of the inquiry, tell the reporter that information that can be released will be furnished as soon as it is available, or refer the reporter to a HQ or Regional Public Affairs Officer.

Under no circumstances should any OI employee ask or suggest that a reporter withhold information from the public, nor should favoritism be shown in providing information to one reporter and not to another, if asked.

Investigations Related to Enforcement Proceedings

The task of striking a fair balance between the protection of those involved in civil or criminal proceedings with the Government and public understandings of the problems of administering the law depends largely on the exercise of sound judgment by reporters and those responsible for administering the law.

At no time shall OI personnel furnish any information for the purpose of influencing (or which may reasonably be expected to influence) the outcome of a proceeding. OI personnel associated with enforcement actions (either civil or criminal) shall not, during their investigation or litigation, make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, if there is a reasonable likelihood that the statement would be publicly disseminated and such dissemination would interfere with a fair proceeding. Prohibited statements include those relating to:

- (1) Evidence regarding the occurrence or transaction involved.
- (2) The character or credibility of a party, witness, or prospective witness.
- (3) The performance or results of any examinations or tests or the refusal or failure of a party to submit to such.
- (4) An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.
- (5) Any other matter reasonably likely to interfere with a fair hearing of the action.

News Releases/News Conferences

Unless there are unusual circumstances, there should be no news releases or news conferences to announce the initiation or results of an ongoing OI investigation. Responsible NRC officials who make programmatic decisions based upon OI investigation (e.g., the imposition of civil penalties) may discuss the results of completed OI investigations in news releases or news conferences provided they do not reveal any nonpublic information (e.g., the identity of confidential sources). Because the OI report of investigation will normally be publicly available by this time, OI will not usually participate in such news conferences. Exceptions to this policy must be approved by the Director, OI, in consultation with the Director, Office of Public Affairs.

Inquiries From News Media

Media inquiries concerning investigative matters should be answered by the Field Office Director, Public Affairs Officer, (either at HQ or the Regional Office), or OI:HQ, within the guidelines set forth in this IPM. Responses to such inquiries should be courteous, factual, and as helpful as possible while refraining, however, from answering hypothetical questions or questions that would require expression of personal opinions.

The reason for the policy of referring all such matters to either an OI manager or a Public Affairs Officer is to ensure both uniformity and accuracy of any information that is provided to news media.

Unless overriding circumstances dictate otherwise, OI investigators who are approached by reporters should provide only the following responses:

- (1) Identify themselves,
- (2) Furnish the name of the Field Office to which they are assigned, and
- (3) State the general nature of the investigation.

Requests for additional information should be answered by courteously referring the reporter to the Field Office Director or Public Affairs Officer.

OBTAINING INFORMATION FROM MEDIA

Investigators may have contact with reporters to obtain information, such as leads and names of informants. Investigators should be cautious about inadvertently releasing prohibited information to reporters in the course of such contact.

Investigators may not, except in emergency conditions, question members of the news media concerning their conduct in the course of, or arising out of, the coverage or investigation of a news story, without OI:HQ approval.

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-003

SUBJECT: INVESTIGATIVE NOTES

OBJECTIVE:

To provide guidance to OI investigators concerning taking, utilizing, and retaining investigative notes.

GENERAL POLICY

Whether to take notes during an interview is a decision left to the discretion of the investigator. However, contemporaneous notes made by an investigator during the course of an investigation may be helpful in producing an accurate, effective, and thorough investigative product. Notes are used to record pertinent oral testimony, data extracted from documentation, personal observations, and other information which may be germane to the matter being investigated. These notes, together with statements and other documentary and physical evidence obtained during an investigation, will facilitate the preparation of a complete report of investigation (ROI). This IPM provides guidance for those situations when OI investigators elect to take notes.

Notes should always be accurate. They should contain the dates and locations of record reviews or interviews, fully identify the persons interviewed as well as other individuals present, and reflect all material pertinent to the investigation. The existence of unusual conditions or other developments which may impact upon the investigation should also be included in the investigator's notes.

METHOD AND AMOUNT OF NOTE TAKING

The method of taking notes is left to the discretion of the investigator. The amount of note taking will vary with the circumstances. Friendly witnesses will seldom object to notes being taken during an interview. These individuals are usually anxious to impart information and will consider note taking as an acknowledgement of the importance of what they have to say.

WHEN TO REFRAIN FROM NOTE TAKING

Hostile or indifferent witnesses may be reluctant to provide information if they observe the investigator taking notes of their verbal remarks. Under these circumstances, the interview may be more successful if the investigator refrains from taking notes until after all pertinent information has been elicited and discussed orally. Then the substantive information can be documented in either note form or a written statement, or both. If necessary, the interviewee can be assured that such a procedure protects him by providing an accurate record of the information he has already orally furnished. A reluctant witness will often not object to technical data, names of individuals, chronology of events, and other such specific information which an investigator would not be expected to commit to memory, being recorded in notes during the course

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-013

SUBJECT: REPORT OF INVESTIGATION FORMAT

OBJECTIVE

This IPM is intended to ensure that all OI investigations are reported in a thorough, objective, and consistent manner.

GENERAL POLICY

The results of all OI investigations will be documented in a Report of Investigation (ROI). The ROI is OI's principal product which is furnished to other NRC components and to licensees and the public after appropriate deletion of exempt matter (dissemination of ROI's is to be addressed in IPM #82-014). ROI's must be written with sufficient detail to provide the appropriate NRC program officials with sufficient facts on which to base their decisions. All pertinent documentation will be appended to ROI's and all individuals contacted will be fully identified, with the exception of those sources granted an express pledge of confidentiality pursuant to IPM #82-008.

ROI FORMAT

The following is an outline of the format for ROI's. Succeeding sections in this IPM will expand on the contents of each portion of the ROI.

1. Cover sheet - preprinted format
2. Title page - preprinted format
3. Body of ROI - contains the following sections:
 - SUMMARY
 - DETAILS
4. STATUS OF INVESTIGATION
5. ATTACHMENTS (if appropriate)

Note that the section headings, i.e., SUMMARY, DETAILS, STATUS OF INVESTIGATION, and ATTACHMENTS will always be capitalized, but not underlined. Captions under the DETAILS section will be underlined but not capitalized. All section headings and captions will begin at the left margin (i.e., they will not be indented or centered).

I. COVER SHEET

Cover sheets will be placed on an ROI whenever there is some restriction on its dissemination. These cover sheets will be preprinted and distributed to Field Offices as soon as they are available. See IPM #82-014 on dissemination of ROI's for details of such restrictions.

of an interview. If conditions preclude taking notes during an interview, all pertinent information obtained should be written down immediately after the interview has terminated while it is still fresh in the investigator's mind.

DETAIL OF NOTE TAKING

When an investigator anticipates obtaining a written statement, his interview notes may be relatively limited; however, the notes should supplement the statement by recording any pertinent information furnished which was not included in the written statement. Conversely, when a written statement is not provided, more detailed notes of the substantive portions of the interview are recommended. These can subsequently be utilized in the preparation of the ROI and/or a Results of Interview.

RETENTION OF NOTES

Retention of investigator's notes after they have been utilized for preparing an ROI and/or Results of Interview is a matter within the discretion of the investigator.

Since investigators occasionally testify at administrative and judicial proceedings, they may consider it prudent to retain their notes until all aspects of the matter being investigated have been completed. It is to be noted that investigators' notes which are shown or transmitted to any other individual, or which are commingled with the official investigative file, are considered agency records and as such they are subject to Freedom of Information Act (FOIA) requests.

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-004

SUBJECT: EVIDENCE CUSTODY

OBJECTIVE

To furnish procedural guidance to OI investigators pertaining to the required methods of maintaining proper custody of evidence related to OI investigations.

GENERAL POLICY

The investigator must follow standard practices in collecting and accounting for evidence to ensure its admissibility at a proceeding.

PROCEDURE

The "Chain of Custody" begins when the evidence is initially discovered. The accounting continues until the evidentiary item is presented in a proceeding. The investigator must be able to demonstrate through testimony at a hearing, if necessary, his/her knowledge of who had possession of the evidence at all times. If the chain of custody is not preserved and accountability is lost by not obtaining appropriate signatures and dates of evidence transfers to other investigators or technical experts, the integrity of the evidence may be challenged and it may not be admitted into the proceeding.

PROGRAM REQUIREMENTS

The following procedures are to be followed to ensure that there is a continuous chain of custody and protection of the integrity of the evidence.

1. Restrict the number of individuals who handle the evidence between the time it is initially discovered and its presentation into a proceeding.
2. Maintain records for evidence removed from the investigator's possession.
 - a. Record the name(s) of individual(s) to whom evidence is transferred.
 - b. Document time and date of the transfer.
 - c. Record purpose of transfer.
 - d. Document name of individual and time and date the evidence was returned.
3. Require that all individuals who handle the evidence provide their signature and written identification on an evidence custody record.
4. Obtain a signed receipt from any individual accepting evidence and also provide a signed receipt when evidence is returned from any proceeding or technical examination.
5. Check returned evidence to determine if the item is the same as submitted and check to establish if evidence is in original condition.
6. Record any changes in the condition of the evidence.

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-005

SUBJECT: PHYSICAL EVIDENCE COLLECTION

OBJECTIVE

To furnish guidance pertaining to the collection of physical evidence during investigations.

GENERAL POLICY

The need for collecting physical evidence may vary from one investigation to another. If the investigator determines that an item is of evidentiary value to an investigation, it should be obtained in such a manner as to ensure that it is not damaged, altered, or destroyed.

PROGRAM REQUIREMENTS

In instances where physical evidence is obtained, it should be properly marked soon as possible to ensure its identification at a later date. Under certain circumstances it may be advantageous to photograph evidence before moving it to its location. The following guidelines are furnished to assist in the marking of evidence.

1. Mark each item of evidence when it is removed from its original place of discovery.
 - a. Print the investigator's initials on the item.
 - b. Record the date and recovery time.
 - c. Place a numerical or alphabetical identifier on the item.
2. Utilize pen and ink markings on documentary type evidence.
3. Utilize a scribe or stylus-type instrument to mark metallic objects.
4. Place each small object or easily altered or damaged object in a separate container(s), seal the container(s), and affix the markings described above.
5. Mark each section of evidence items which have removable or separable parts.
6. Evidence which requires special handling relating to radiation safety should be obtained only after requesting assistance from appropriate radiological safety personnel.

IPM No. 82-004 should be consulted for OI procedures concerning Evidence Custody.

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-006

SUBJECT: USE OF ORDERS IN SUPPORT OF INVESTIGATIONS

OBJECTIVE

To describe the situations in which investigators should request that orders be issued to support OI investigations and to outline the procedures for making such requests.

BACKGROUND

NRC order-issuing authority is exercised most frequently in support of the Commission's enforcement or licensing proceedings. Although facts uncovered in OI investigations will serve as the basis for orders in many enforcement or licensing matters, the decision to seek them is made by other NRC components. The only orders OI will seek are those that enhance OI's ability to successfully resolve a matter under investigation.

AUTHORITY

The Commission's authority to issue orders is found in subsections 161 b., i., and o. of the Atomic Energy Act of 1954, as amended. The Commission has delegated the authority to issue orders to various NRC officials. The procedures for imposing requirements on licensees by order are contained in 10 CFR Part 2, Subpart B.

TYPES OF SITUATIONS IN WHICH ORDERS MAY BE SOUGHT BY OI

This section illustrates situations in which orders may be of value during the course of OI investigations.

Failure To Cooperate With the Investigation

In the great majority of cases, investigators are able to obtain voluntary cooperation; but, on occasion, individuals or organizations may not be cooperative. OI can compel testimony and/or production of evidence by subpoena in such situations from any individual or organization; however, sometimes the cooperation required is of a different nature. For example when a company under investigation improperly conditions access to the facility or its personnel, or otherwise obstructs the investigation, a subpoena is unsuited to obtain the necessary cooperation. In such situations an order directed to the appropriate licensee may be necessary to secure the cooperation of the licensee and any individual or organization that has a direct or indirect relationship with the licensee (e.g., subsidiaries, parent companies, vendors, contractors, sub-contractors, consultants, agents, and employees).

Preservation of Evidence

Investigators normally will retain possession of documentary or other physical evidence identified during investigations in accordance with the relevant OI instructions on the handling of evidence. However, when it is not practicable for OI to obtain actual control of the evidence because of its volume or physical characteristics, an order may be issued directing the licensee to ensure its preservation. Such an order should be effective whenever the evidence is under the control of a licensee or any individual or organization that has a direct or indirect relationship with the licensee.

HOW TO OBTAIN ORDERS

When the investigator believes that an order would be of assistance in an investigation, he/she should request OI management to seek an order. Whenever possible the investigator should propose language to be used in the body of the order so that any order that is issued will be responsive to the need perceived. Because OI does not have authority to issue orders, the Director, OI, shall request any orders he/she deems necessary, in consultation with the cognizant legal office, from the appropriate issuing authority, e.g., the Commission, presiding officers in NRC proceedings, or the Director of the Office of Inspection and Enforcement.

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-008

SUBJECT: CONFIDENTIALITY OF INFORMANTS/WITNESSES

OBJECTIVES

- (1) To provide the NRC with the broadest possible latitude in making use of information from informants and witnesses while still providing those individuals with adequate assurances that their identities will be protected as fully as possible.
- (2) To minimize the possibility of subsequent claims that individuals were offered confidentiality, when it was not granted either as a matter of policy or because it was not specifically requested.

GENERAL POLICY

Investigators will not routinely offer confidentiality to individuals making allegations or otherwise providing information during the course of an NRC investigation. The subject of confidentiality, i.e., the protection of the identity of an informant or witness, normally should not be raised initially by the investigator during an NRC interview. If an individual requests anonymity, or if in the opinion of the investigator the information will not otherwise be forthcoming, the investigator may then grant confidentiality.

EXTENT OF CONFIDENTIALITY AVAILABLE

Before confidentiality has been granted, the individual should be informed that, although the pledge is not absolute, it is NRC policy not to divulge to others the identity of people granted confidentiality, either during or subsequent to the investigation; further, the individual should be told that his/her name will not normally appear in the publicly released report of investigation. It should be pointed out, however, that the nature of the allegations or the limited number of individuals privy to the subject information may provide a basis for guessing his/her identity. Such "guesses" will not be confirmed or otherwise responded to by NRC.

Finally, the individual should be made aware that, if the results of the investigation form the basis for an enforcement action, either civil or criminal, and a hearing ensues, it may not be possible to maintain his/her anonymity. The individual should be informed that the information may be given to Congress and/or other Federal agencies. He/she should also be advised of the protection afforded by section 210 of the Energy Reorganization Act of 1974 to employees who may be discharged or otherwise discriminated against for providing information or assistance to the NRC.

CONFIDENTIALITY AGREEMENT

When an individual accepts the offer of confidentiality, a "Confidentiality Agreement" (attachment 1) must be executed. This form outlines the scope of the agreement and the responsibilities of each party. Investigators are not authorized to grant confidentiality to anyone who refuses to sign an agreement

in substantially the same form. The form provides a space for "other conditions" which may be used to address particular needs; however, investigators may not allow such conditions to alter the general scope of confidentiality authorized. After the form is signed by both the individual and the investigator, the original copy should be provided to the individual; the investigator should retain either a photocopy of the executed agreement or a duplicate original of the agreement. The NRC copy will be retained in the OI Field Office file for the investigation.

(ORIGINAL TO SOURCE OF INFORMATION, AND TO NRC)
I have information that I wish to provide in confidence to the U. S. Nuclear Regulatory Commission (NRC). I request an express pledge of confidentiality as a condition of providing this information to the NRC. I will not provide this information voluntarily to the NRC without such confidentiality being extended to me.

It is my understanding, consistent with its legal obligations, the NRC, by agreeing to this confidentiality, will adhere to the following conditions:

- (1) The NRC will not identify me by name or personal identifier in any NRC initiated document, conversation, or communication released to the public which relates directly to the information provided by me. I understand the term "public release" to encompass any distribution outside of the NRC with the exception of other public agencies which may require this information in furtherance of their responsibilities under law or public trust.
- (2) The NRC will disclose my identity within the NRC only to the extent required for the conduct of NRC related activities.
- (3) During the course of the inquiry or investigation the NRC will also make every effort consistent with the investigative needs of the Commission to avoid actions which would clearly be expected to result in the disclosure of my identity to persons subsequently contacted by the NRC. At a later stage I understand that even though the NRC will make every reasonable effort to protect my identity, my identification could be compelled by orders or subpoenas issued by courts of law, hearing boards, or similar legal entities. In such cases, the basis for granting this promise of confidentiality and any other relevant facts will be communicated to the authority ordering the disclosure in an effort to maintain my confidentiality. If this effort proves unsuccessful, a representative of the NRC will attempt to inform me of any such action before disclosing my identity.

I also understand that the NRC will consider me to have waived my right to confidentiality if I take any action that may be reasonably expected to disclose my identity. I further understand that the NRC will consider me to have waived my rights to confidentiality if I provide (or have previously provided) information to any other party that contradicts the information that I provided to the NRC or if circumstances indicate that I am intentionally providing false information to the NRC.

Other Conditions: (if any)

I have read and fully understand the contents of this agreement. I agree with its provisions.

Date

Signature of source of information
Typed or Printed Name and Address

Agreed to on behalf of the US Nuclear Regulatory Commission.

Date

Signature
Typed or Printed Name and Title

Revision 1.

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-009

SUBJECT: ADMINISTERING OATHS OR AFFIRMATIONS

OBJECTIVE

To provide uniform guidance about administering oaths and affirmations.

AUTHORITY

Subsection 161c. of the Atomic Energy Act of 1954, as amended, authorizes the Commission to administer oaths and affirmations in connection with its investigations. That authority has been delegated to the Director, OI, and redelegated to all OI investigators.

GENERAL POLICY

The point at which an oath is administered depends upon the circumstances surrounding the interview. However, as a general rule, it is more advantageous to complete the interview and obtain as much information as possible before administering the oath or affirmation. There may, however, be instances in which it would be beneficial to place the individual under oath before the interview.

When the investigator determines that the affiant is willing to swear or affirm to the veracity of the information, sworn testimony should be obtained by having the affiant raise the right hand. The investigator should also raise the right hand and say:

- "Do you swear" (or "affirm") "that the"
- (1) "statement given by you,"
 - (2) "information provided by you," or
 - (3) "information you are about to give,"
- "is the truth, the whole truth, and nothing but the truth, so help you God?"

An affirmative response validates the oath. Note that the words, "so help you God" are omitted in the case of an affirmation.

The choice of the proper phrase within the oath/affirmation is determined by the following circumstances:

- (a) Phrase (1) is used when the affiant provides a written statement.
- (b) Phrase (2) is used when the affiant refuses to provide a written statement, but does agree to swear/affirm to the veracity of oral testimony.
- (c) Phrase (3) is used when the oath/affirmation is administered at the outset of the interview.

When the affiant provides a written statement, the oath or affirmation is administered after the affiant has read the statement and made necessary

corrections, but before the statement is signed (see Format 1). If the interviewee is unwilling to provide a sworn statement, the language in Format 2 may be used; such unsworn declarations have the same effect as sworn statements. If the interviewee is only willing to provide a signed statement, Format 3 should be used.

THE INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE BY THE MARKINGS HEREON. IT IS THE POLICY OF THE FBI TO MAKE AVAILABLE TO THE PUBLIC INFORMATION THAT IS NOT OTHERWISE RESTRICTED BY LAW.

When the investigation has been completed, the affidavit shall be filed in the case file.

UNCLASSIFIED

DATE 10/10/00 BY 60322 UCBAW/STP

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE BY THE MARKINGS HEREON.

FORMAT 1

I have read the foregoing statement consisting of _____ handwritten/
typed pages. I have made and initialed any necessary corrections and have
signed my name in ink in the margin of each page. I swear that the foregoing
statement is true and correct. Signed on _____ at _____
(date) (time)

SIGNATURE: _____
NAME: (TYPED OR PRINTED)

Subscribed and sworn to before me this _____ day of _____, 19 _____,
at _____.

INVESTIGATOR: _____
NAME: (TYPED OR PRINTED)

WITNESS: _____
NAME: (TYPED OR PRINTED)
TITLE: _____

FORMAT-2

I have read the foregoing statement consisting of _____ handwritten/
typed pages. I have made and initialed any necessary corrections and have
signed my name in ink in the margin of each page. I declare under penalty of
perjury that the foregoing statement is true and correct.

Signed on _____ at _____
(date) (time)

SIGNATURE: _____
NAME: (TYPED OR PRINTED)

WITNESS: _____
NAME: (TYPED OR PRINTED)
TITLE:

FORMAT 3

I have read the foregoing statement consisting of _____ handwritten/typed pages. I have made and initialed any necessary corrections and have signed my name in ink in the margin of each page. I declare that the foregoing statement is true and correct. Signed on _____ at _____
(date) (time)

SIGNATURE: _____

WITNESS: _____

TITLE: _____

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-010

SUBJECT: MIRANDA WARNINGS

OBJECTIVE

To inform investigators about when to give the Miranda warnings to interviewees.

BACKGROUND

Persons interviewed during the course of NRC investigations may have committed criminal as well as civil violations of statutes or NRC regulations. Consequently, the question arises as to whether such persons need be given the warnings required to be furnished to criminal suspects by the Supreme Court decision in the case of Miranda v. Arizona (384 U.S. 436 (1966)) and related rulings (commonly known as "Miranda warnings").

GENERAL POLICY

Miranda warnings will not be furnished by OI investigators to persons interviewed during the course of OI investigations unless (1) the interviewee is in custody or (2) OI management directs that such warnings be given because of some special circumstance which exists. A person is in custody if incarcerated, under arrest, or otherwise significantly deprived of freedom for any reason, even if it is not related to the matter being investigated. As OI investigators normally do not interview persons who are in custody, Miranda warnings are rarely required. Any questions regarding this area that arise during an investigation should be directed to OI:HQ for resolution.

August 6, 1982

AUG 6 1982

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-012

SUBJECT: OBTAINING FORWARDING ADDRESSES AND POST OFFICE BOX NUMBERS
FROM THE U.S. POSTAL SERVICE

OBJECTIVE

To furnish procedural guidance to OI investigators for obtaining forwarding addresses and post office box numbers from the U.S. Postal Service.

PROCEDURE

Usually an OI investigator may obtain a forwarding address of a person or an actual street address of a particular individual who possesses a post office box number by displaying his/her credentials and explaining his/her purpose. However, some U.S. Postal employees will also require a letter (Format 1) which certifies that the investigator requires this postal information in the performance of his/her official duties. In such situations, a letter similar to that attached should be provided.

FORMAT 1

The undersigned certifies that _____ is an Investigator with the Office of Investigations, US Nuclear Regulatory Commission. Pursuant to 39 CFR 265.6 (Release of Information - Availability of Records), please provide the above named investigator without charge the name(s) and/or address(es) of the postal customer(s) that he/she requests. Such information is required to be obtained in the performance of the named Investigator's official duties with the US Nuclear Regulatory Commission.

Director, _____ Field Office
Office of Investigations
US Nuclear Regulatory Commission

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-013

SUBJECT: REPORT OF INVESTIGATION FORMAT

OBJECTIVE

This IPM is intended to ensure that all OI investigations are reported in a thorough, objective, and consistent manner.

GENERAL POLICY

The results of all OI investigations will be documented in a Report of Investigation (ROI). The ROI is OI's principal product which is furnished to other NRC components and to licensees and the public after appropriate deletion of exempt matter (dissemination of ROI's is to be addressed in IPM #82-014). ROI's must be written with sufficient detail to provide the appropriate NRC program officials with sufficient facts on which to base their decisions. All pertinent documentation will be appended to ROI's and all individuals contacted will be fully identified, with the exception of those sources granted an express pledge of confidentiality pursuant to IPM #82-008.

ROI FORMAT

The following is an outline of the format for ROI's. Succeeding sections in this IPM will expand on the contents of each portion of the ROI.

1. Cover sheet - preprinted format
2. Title page - preprinted format
3. Body of ROI - contains the following sections:
 - SUMMARY
 - DETAILS
4. STATUS OF INVESTIGATION
5. ATTACHMENTS (if appropriate)

Note that the section headings, i.e., SUMMARY, DETAILS, STATUS OF INVESTIGATION, and ATTACHMENTS will always be capitalized, but not underlined. Captions under the DETAILS section will be underlined but not capitalized. All section headings and captions will begin at the left margin (i.e., they will not be indented or centered).

I. COVER SHEET

Cover sheets will be placed on an ROI whenever there is some restriction on its dissemination. These cover sheets will be preprinted and distributed to Field Offices as soon as they are available. See IPM #82-014 on dissemination of ROI's for details of such restrictions.

II. TITLE PAGE

Attached is the title page to be used for all ROI's. This format should be typed on NRC (Washington, DC) letterhead until a supply of preprinted title pages is made available. Attachment 2 is an example of what a completed title page might look like. The following is a description of some of the specific fields contained on the title page which are not self-explanatory.

Title

Case titles normally are a combination of the name of the company, facility, or other entity, and a succinct statement of the nature of the investigation such as "alleged falsification of QA records" or "possible unauthorized release of radio-activity." In instances where no identifiable facility or entity is involved, the geographic location will be used instead, such as "Buffalo, New York - Plutonium Container Found in Junkyard." OI:HQ should be contacted for guidance in captioning any cases in which individuals are the subjects of the case.

Supplemental

This caption is used to capture the docket, license, or vendor number, or any other useful identifying data.

Case Number

The case number is composed of a single character identifying the control office (1,2,3,4,5, or H signifying Philadelphia, Atlanta, Chicago, Dallas, San Francisco, or Headquarters respectively), two digits signifying the calendar year, and a three digit sequential number. The case number remains the same regardless of which office prepares the report or how many reports are produced.

Control Office

The control office is the office that has overall responsibility for the case. This normally is the office which opened the case. The status of a case within the control office, and hence the overall status of the OI case, is either PENDING, CLOSED, or SUPPLEMENTAL. The latter term applies to any additional information reported subsequent to the formal closing of an investigation.

Reporting Office

The reporting office caption and status is used to report investigative activity conducted by an office on the behalf of a control office. The reporting office caption is omitted when the entire investigation was handled by personnel of the control office. The status of a case within the reporting office is either PENDING, SUPPLEMENTAL or RUC. The latter stands for "referred upon completion" which means that all investigative coverage requested of the reporting office by the control office has been completed.

Period of Investigation

The period of investigation extends from the time the case is opened (or the request received from the control office) to the date of the last investigative activity.

Reporting Investigator

The reporting investigator is the person preparing the ROI. The reporting investigator is responsible for ensuring that the report accurately reflects the data collected by all personnel assigned to the case. The reporting investigator signs and dates the final copy of the ROI that is dispatched to OI:HQ.

Participating Investigator

Under this caption all Government personnel who participated in the investigation are identified by name, title, and organization. Participating personnel do not sign the ROI.

Reviewed by:

ROI's must be reviewed and signed by Field Office Directors before being forwarded to OI:HQ. ROI's for HQ cases are reviewed by the reporting investigator's first-level supervisor.

Approved by:

ROI's must be approved by the Director, OI, or another designated OI:HQ official before they are released outside OI.

III. SUMMARY

The purpose of this section is to summarize the information contained within the main body of the report of investigation. Although the summary will be as brief as possible, it must be of sufficient length to convey to the reader the reason for the investigation, the investigative actions that were taken, and what information resulted from those actions. While the summary should reflect all the substantive information developed during the course of the investigation, care must be exercised to ensure that it does not contain information that does not appear in the main body of the report.

IV. DETAILS

The main body of the report is the details section. This section will be used to record all pertinent details of the investigation in a thorough, systematic, comprehensive, and objective manner. This section will be further divided into captioned sections descriptive of the investigative activity reported therein. Each such caption will be on a separate page. This affords the following advantages:

- 1) It allows the correction of typographical errors without having to redo the entire report.
- 2) It facilitates the writing of the report by more than one person. Each participant can write up his or her activity under the appropriate caption as soon as the particular activity is complete.
- 3) It allows the reporting investigator to organize the report of investigation by arranging the individual captions in the order that best presents the information to the reader.

Although the usual method of structuring the sequence of captions is to place them in a chronological order, some investigations may lend themselves to a different method of presentation. Other than the first two captions described below, the choice of sequence is entirely that of the reporting investigator.

The first caption in the details section of every report is entitled Purpose of Investigation. As this caption will set the scope of the investigation, great care should be exercised to reflect carefully upon the specific objectives of the investigation before writing this caption. Some examples of this caption, which normally will consist of only one or two sentences are:

The purpose of this investigation was to investigate allegations that quality control inspectors employed by ABC Inc. were being systematically intimidated by construction workers with the tacit approval of XYZ Nuclear Generating Station management.

The purpose of this investigation was to investigate apparent records falsification by the ABC Security Service which was discovered during the course of a routine inspection.

The purpose of this investigation was to establish the sequence of events during the accident at the XYZ NPS during the period of June 12-15, 1980.

The obvious purpose of this caption is to give the reader a clear understanding of what the investigation is about.

The second mandatory caption is the Background caption. This section will be used to describe the information or situation that led to the initiation of the investigation. It will also reflect the identity of the NRC management official(s) who requested or authorized the investigation as well as any other information known upon initiation of the investigation. This section will not be used to record any investigative effort on the part of the NRC except for the results of an inspection or inquiry that may have provided the basis for the investigation.

Subsequent captions are within the discretion of the reporting investigator and are governed by the nature of the investigation. Although cases involving multiple allegations might require the listing of the allegations separately, most investigations can be reported by use of the appropriate captions without separate treatment of the allegations (this is largely influenced by scoping the investigation properly; it is usually better to write more than one report of investigation when dealing with disparate allegations rather than to attempt to "shoehorn" such allegations into one report).

The following are examples of captions that could frequently be used in reports of investigation:

Interview of Allegor
Interview of Security Director/Nuclear Materials Manager
Description of Facility
Observation of Security Procedures
Examination of Quality Assurance Records
Background Data Regarding John F. Roe
Examination of Reactor Containment
Re-interview of Allegor
Contact with the Bay City Police Department

Interview of John F. Roe
Examination (or review) of Guard Training Records
Interviews of Security Guards

As a general rule, interviews that yield substantive information will be reported under an individual caption. A more generic caption should be used to document interviews of classes or groups of interviewees that fail to provide substantive information. For example, twelve security guards when interviewed separately were unable to provide any relevant information. This would then be written up in the following manner:

Interviews of Security Guards

The following security guards employed by the ABC Security Guard Service at the XYZ NPS were interviewed individually at the XYZ NPS during period May 1-3, 1980.

List full identification of all 12 guards in tabular form.

All denied knowledge of any irregularities in the firearms qualifications program. None of the interviewees was able to provide any information pertinent to this investigation.

Note that it is important to identify these apparently non-productive interviews for the following reasons. Most fundamentally, it provides the reader with a more balanced picture of the evidence or lack thereof relating to the purpose of the investigation. Secondly, it neutralizes witnesses that for one reason or another might be used by the subject of the investigation to refute information gained from other sources.

Whenever an interviewee furnishes a written statement, the information reported in the details section under the individual caption should only summarize those portions of the statement that speak to the purpose of the investigation. It should call the reader's attention to the fact that a statement was obtained and is appended to the report as in the following example:

Interview of John Jacob Roe

Roe, a security guard employed by the ABC Security Guard Service, when interviewed by Investigators R. K. SMITH and P. E. JONES on May 2, 1980 at the XYZ NPS security office, voluntarily provided a signed, sworn statement (Enclosure 1) wherein he stated that he had never successfully qualified with the .38 revolver notwithstanding the fact that his employer's records indicated that he had done so. According to ROE, after failing three times to achieve a passing score on the range on March 17, 1980, his supervisor, Sgt. James ADAMS told him not to worry about it in that he (ADAMS) would fix the records to show that ROE was qualified. ROE indicated that another guard, Sally MYERS was present during the conversation and could corroborate his assertions. ROE indicated that he has performed his duties as an armed guard ever since that date. ROE was unable to provide any additional pertinent information.

Surnames of persons should always be capitalized in ROI's.

From time to time, an interviewee will provide considerable substantive information but be unwilling to reduce it to the form of either a sworn or unsworn signed statement. In such instances, this information should be placed in a document that can stand by itself in the same manner as a signed statement. In these instances, the information should be written in the form of Results of Interview, the format for which will be provided in a separate IPM. Results of Interview will be treated the same as a signed statement for purposes of writing the report, i.e., the individual caption will summarize the pertinent information and direct the reader's attention to the enclosed Results of Interview as in the example cited above.

Unless granted an express pledge of confidentiality in accordance with the provisions of IPM #82-008, all interviewees will be fully identified in JI-ROI's (see IPM #82-014).

Whenever possible, photographs or diagrams should be appended to the report of investigation to enhance understanding. For instance, a diagram or photograph would be useful to the reader when attempting to describe a particular component, or the location of an event or occurrence within a facility. Black and white photographs are usually sufficient and have the additional advantage of being able to be reproduced reasonably well via xerography. However, in cases involving radiation overexposures where there are observable signs of the physical injury, color photographs should be used. Because of the additional expense that attends it, color photography should be limited to those instances where color demonstrably increases the reader's understanding of the matter of being investigated.

The sub-caption "Investigator's Note" provides a mechanism for the investigator to document his or her opinion or observation regarding a particular portion of the report. Typical uses of the Investigator's Note caption would be to point out contradictions in an interviewee's testimony, to add observations regarding the investigator's opinion of the reliability of the interviewee or the information being provided, or to add other relevant observations. The Investigator's Note caption must be used sparingly in order to maintain the objectivity of the report. The Investigator's Note is indented five spaces and inserted within the caption to which it relates. Some examples are:

INVESTIGATOR'S NOTE: JONES impressed the reporting investigator as a sincere, highly articulate individual. He answered all questions without hesitation or apparent evasiveness.

INVESTIGATOR'S NOTE: J. SMITH and S. FRANK when interviewed described JONES as a pathological liar who had vowed to "get even" with XYZ management.

A note of caution. Unless the investigator is absolutely convinced that the Investigator's Note is important to the understanding or assessment of the information, it is best left out because the investigator may have been deceived by a particularly persuasive interviewee or have misread a genuinely nervous, but truthful interviewee. Too gratuitous a use of such Notes will drastically affect the objectivity of the report due to their tendency to influence the reader.

When choosing the captions that form the basis for the details section of the report, the writer should remember the need for all reports to answer the fundamental questions of Who, What, When, Where, Why, and How. Upon completion of the details section, the reporting investigator should assemble the captions in the proper order and read the assembled package with a view to assuring that the

foregoing questions are answered. If they are not, obviously additional field-work and/or writing is needed. If not all of these questions can be answered at the time the report is written, either the investigation must remain in a Pending Status or the Status of Investigation section, described below, should state the reasons why these questions could not be answered.

The names of the OI or other personnel who performed the activity described in a particular caption (such as interviews) will always be noted in the details section.

V. STATUS OF INVESTIGATION

This section of the report appears on a separate page following the details section and is used to inform the reader of the status of the investigation as well as the reasons for its status. Only the Control Office can describe the investigation as CLOSED in this section. A Field Office producing a report of investigation as a result of a lead sent to them would merely state, "This investigation continues in a PENDING status," without further explanation. When the control office writes an interim report, an explanation should be provided as to why the case remains PENDING. For example:

This investigation continues in a PENDING status awaiting review and analysis of the information reported herein by IE Management and the Office of the Executive Legal Director (or US Department of Justice).

This investigation continues in a PENDING status awaiting location and interview of Sally FRANK by the Philadelphia Field Office.

The status of a case is always capitalized in an ROI.

When a case is closed by the control office, and all of the basic questions listed above have been answered by the ROI as well as any others that may have been generated during the course of the investigation, it is sufficient to use the statement, "The status of this investigation is CLOSED." In the event that there are loose ends, and a decision is made to close the case, some explanation should be furnished as in the following examples:

Upon review of the information developed to date by this investigation, Mr. John SMITH, Division of Reactor Operations, indicated that no further investigative effort was warranted. Consequently the status of this investigation is CLOSED.

Attempts to develop additional pertinent information have been unproductive. In the absence of logical investigative leads, this investigation is CLOSED. In the event that information subsequently comes to the attention of NRC regarding this matter, the case will be reopened and the results of the additional investigative effort reported in Supplemental reports bearing the same case control number.

Again, the primary purpose of this caption is to tie up loose ends and to let the reader know that the writer is aware of any gaps in investigative coverage.

VI. ATTACHMENTS

This is the last section of the report and is used to describe the attachments. Generally, the original of statements or other documents will remain in the files of the control office where they can be obtained if needed for evidentiary purposes in hearings and trials resulting from the investigation. Thus it will not be necessary to differentiate in the attachments section between copies and originals unless the original is not retained in the control office files. As a general principle, all recipients of the ROI will receive all the attachments, but there may be exceptions such as photographs (for economic reasons) or statements (for reasons of confidentiality). Any ROIs from which enclosures have been deleted must be appropriately annotated to the effect (see IPM #82-014).

Attachment 1

OFFICE OF INVESTIGATIONS

DATE _____

REPORT OF INVESTIGATION

TITLE: _____

SUPPLEMENTAL: _____

CASE NUMBER: _____

CONTROL OFFICE: _____

STATUS: _____

REPORTING OFFICE: _____

STATUS: _____

PERIOD OF INVESTIGATION: _____

REPORTING INVESTIGATOR: _____

PARTICIPATING PERSONNEL: _____

REVIEWED BY: _____

APPROVED BY: _____

OFFICE OF INVESTIGATIONS

DATE _____

REPORT OF INVESTIGATIONS

TITLE: XYZ Nuclear Power Station
Alleged Falsification of Guard Training Records

SUPPLEMENTAL: DN 50-123

CASE NUMBER: A1-82-001

CONTROL OFFICE: Atlanta STATUS: PENDING

REPORTING OFFICE: Dallas STATUS: RUC

PERIOD OF INVESTIGATION: August 2-6, 1982

REPORTING INVESTIGATOR: Frank R. Stanley, Senior Investigator
Dallas Field Office

PARTICIPATING PERSONNEL: Brian A. Downs, Investigator
Dallas Field Office

John A. Wilkins, Investigator
Chicago Field Office

Michael J. Duncan, Physical Security Inspector
NRC Region II

REVIEWED BY: Allen J. Michaels, Acting Director
Dallas Field Office, OI

APPROVED BY: Steven B. Williams, Deputy Director
Office of Investigations

September 27, 1982

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 82-015

SUBJECT: RELEASE OF SAFETY-RELATED INFORMATION SURFACED THROUGH OI INVESTIGATIONS

OBJECTIVE:

To furnish OI investigators with guidance concerning the dissemination of any safety-related information of an immediate nature which may be developed during the course of an investigation.

BACKGROUND:

In an investigation or inquiry conducted by OI, the investigator is responsible for protecting the integrity of the investigative process. If non-OI personnel are assigned to the investigation, the investigator functions as team leader and retains his responsibility. Normally, this includes strictly controlling the release and dissemination of all information which may be germane to the matter under investigation; however, when the nature of this information is, or appears to be, both safety-related and of immediate concern, the investigator has the further responsibility of ensuring that the appropriate NRC officials are expeditiously notified so that corrective action may be promptly initiated.

Therefore, when a potential significant safety issue is identified during the course of an OI investigation, the investigator will immediately notify the Director of the appropriate field office. It will then be the responsibility of the OI Field Office Director to furnish the cognizant NRC Regional Administrator with all available information concerning the issues in question. The Regional Administrator will determine the actual safety significance of the issue and the need, or lack thereof, of prompt corrective action. After consultation with the Director, OI Field Office, or his designee, the Regional Administrator (or his designee) may decide to notify the licensee, vendor, etc. of those significant safety-related issues requiring prompt attention; however, the OI Field Office Director (or his/her designee) should advise the Regional Administrator with a view toward limiting the release of information to the minimum necessary to protect the public health and safety. No other information should be released in the interest of maintaining the integrity of the investigative process.

After notifying the Regional Administrator of the safety-related issue, the OI Field Office Director shall advise OI headquarters at the earliest possible opportunity. A written record of OI's notification to the region, shall be prepared and shall include, but not be limited to, the nature of the information, the time and date it was provided to the region, to whom it was provided,

whether it was released outside the NRC, etc. It should be emphasized that the threshold for the notification of the OI Field Office Director by an investigator should not be too high; if there is any doubt whatsoever as to whether the information should be transmitted, by all means transmit it.

Finally, it should also be noted that OI only bears the responsibility of notifying the Regional Administrator of safety-related matters which arise during an OI conducted investigation or inquiry; when such matters are surfaced during an inspection or inquiry conducted by a particular region, even though OI investigators may have been asked to assist or participate, the responsibility for any notification remains with the regional personnel.

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO. 83-016

SUBJECT: BOARD NOTIFICATION PROCEDURES FOR ALLEGATIONS

OBJECTIVE

To provide the appropriate NRC staff office with information regarding allegations received by OI from sources outside NRC which may be subject to a Board Notification (BN). -

BACKGROUND

There is a Commission approved agency-wide policy regarding notification of Licensing Boards, Appeal Boards or the Commission of new and potentially important information which the technical staff believes to be relevant to one or more proceedings pending before the Boards or the Commission. Broadly stated, the policy calls for all NRC personnel to be alert to the emergence of such information--from outside sources or within the NRC--which is potentially relevant to a pending adjudication. This information must be channeled, together with the recommendation that it go to the Board(s) and with the rationale for that recommendation, to the Director of Licensing, NRR, or NMSS's Board Notification Coordinator for further assessment and recommendation (see NRR Office Letter 19, Rev.1, attached).

APPLICABILITY

The policy on Board Notification requires that Boards be provided new information developed or received within thirty (30) days prior to the start of the evidentiary hearings. Thereupon, the Board Notification period extends until the adjudication becomes final within the Commission, i.e., until completion of Commission review or Commission election not to review it. Information received prior to the board notification period is simply factored into staff documentation (e.g. Safety Evaluation Report) which goes to the Boards in the normal course of events.

It applies to all construction permit and operating license proceedings regardless of the specific issues which are in controversy. However, for operating license amendment hearings, Board Notification is limited to information on issues under consideration in the hearing.

If an allegation (information) ultimately results in a Board Notification, all parties to the adjudicatory proceeding as well as the Board(s) will be provided with the notification.

GENERAL POLICY

All allegations received directly by OI Investigators from a source outside NRC which may be subject to a BN shall be promptly transmitted to the appropriate NRC staff office (when received by headquarters investigators) or regional office (when received by field investigators) for their review, evaluation and recommendation for a BN.

PROGRAM REQUIREMENTS

OI Investigators

All allegations received directly by OI Investigators from a source outside NRC which may be the subject of a BN should be promptly transmitted to the appropriate staff office (NRR, NMSS) when received by headquarters investigators or regional office when received by field investigators. The transmission will be made through the cognizant OI supervisor within two working days. In the case of a Field Office, OI:HQ should be promptly informed concurrent with the transmittal of the information to the cognizant regional office. */ This applies to allegations which relate to a facility which is the subject of an adjudication which has reached the BN stage as explained above,**/ regardless of whether the allegations will be handled through inspection or investigatory effort.

It is incumbent upon all OI investigative personnel to always view any allegation information they may directly receive, not only from the perspective of its potential investigative merit, but also whether or not it may require a Board Notification.

Field Office Director/Director, Division of Field Operations

- a) Reviews allegations identified or received directly by investigators supervised by them. Transmits the allegations within two working days to the appropriate region or in the case of Director, DFO to the appropriate staff office (NRR or NMSS). The priority in which such an investigation is placed will be determined through discussion between the appropriate OI Field Director and OI:HQ.
- b) It will be the responsibility of the DFO to transmit to the appropriate staff office any update information affecting a previously issued BN. The Field Office Directors will ensure that such updated information when identified by the Field Office, is transmitted to the DFO within 2 working days after its receipt.
- c) Director, DFO in consultation with the cognizant Field Office Director reviews and concurs in BN's initiated by the staff office regarding allegations which are the subject of an OI investigation to ensure that the BN is sufficiently informative but does not provide information which if released would compromise that investigation.

*/ The information is in turn provided to NRR or NMSS by the Region for further assessment to determine whether the information is subject to a BN. If the information is subject to a BN and it relates to an OI investigation, OI:HQ reviews the BN to insure the information will not compromise the investigation.

**/ Allegations received from an outside source although not subject to this OI BN procedure shall also be promptly transmitted to the appropriate region or staff office either by the Field Office Director or Director, Division of Field Operations.

REFERENCES

For additional background information refer to Inspection and Enforcement Manual Chapter 1530, NRR Office Letter 19 (revision 1), NRR Office Letter 37, SECY-82-122, and SECY-82-340.

NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20545

DECEMBER 9 1978

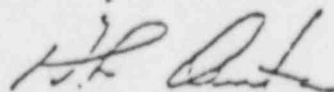
MEMORANDUM FOR: Darrell G. Eisenhut, Director, Division of Licensing
Richard H. Vollmer, Director, Division of Engineering
Stephen H. Hanauer, Director, Division of Human Factors
Safety
Denwood F. Ross, Director, Division of Systems Integration
Thomas E. Hurley, Director, Division of Safety Technology
Bernard J. Snyder, Program Director, TMI Program Office

FROM: Harold R. Denton, Director, Office of Nuclear Reactor
Regulation

SUBJECT: NRR OFFICE LETTER NO. 19, REVISION 1
PROCEDURES FOR NOTIFICATION TO LICENSING BOARDS OF
RELEVANT AND MATERIAL NEW INFORMATION

Effective immediately, all NRR personnel will use the following revised procedures for assuring prompt and appropriate action on notifying Licensing Boards, Appeal Panel and the Commission of new information which is considered by the staff to be relevant and material to one or more licensing proceedings. These revised procedures reflect the experience we have gained since issuing the original Office Letter No. 19 on July 6, 1978.

This Office Letter places an obligation on all NRR staff members to be alert to the significance of new information that is developed in the course of their review and to consider whether this information could reasonably be regarded as putting a new or different light upon an issue before Boards or as raising a new issue after publication of the staff's principal evidentiary documents. This is the central theme of the procedures and requires the exercise of good judgment to assure that Boards will not be burdened with material beyond that potentially significant to the individual licensing proceedings.



Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosures:
Board Notification
Procedure

cc: -E. Christenbury, OELD
R. Rosenthal, ASLAP
R. Lazo, ASLEP
R. Hoefling

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OFFICE OF INVESTIGATIONS
HEADQUARTERS

U.S. NRC

BOARD NOTIFICATION PROCEDURE

A. BACKGROUND

Following Commission approval of its Board Notification policy on May 4, 1978, the Office of Nuclear Reactor Regulation issued NRR Office Letter No. 19, dated July 6, 1978, which contained Board Notification procedures to be implemented by NRR. The term "Board Notification" refers to new information which is considered to be relevant and material to one or more licensing proceedings, i.e., material relating to an issue before a Licensing Board, Appeal Panel, or the Commission which can reasonably be regarded as putting a new or different light on that issue, or raising a new issue. (Note that the term "Board" will be used in this procedure to refer to Licensing Boards, Appeal Panel and Commission.)

In a memorandum dated May 10, 1978, the Commission requested that an evaluation of the Board Notification policy be prepared when approximately one year of experience was available. To this end, Commission Paper SECY-80-129, dated March 10, 1980, provided an assessment of then current procedures and proposed changes to those procedures to correct problems encountered in carrying out the Board Notification policy.

B. DISCUSSION

There were three significant changes to the Board Notification procedures recommended in SECY-80-129 and approved by the Commission:

1. Change the time threshold for initiating the formal Board Notification procedures from the issuance of the ACRS Supplement and FES to 30 days before the start of the evidentiary hearing.
2. Eliminate the routine transmittal to the Boards of staff correspondence and notices to applicants and licensees. Staff correspondence and notices to applicants and licensees would be sent to the Board only if it is determined to meet the guidelines for Board Notification, i.e., new information considered material and relevant.
3. Incorporate the guidelines for staff appraisal and evaluation of Board Notification matter set forth in ALAB-551, as follows:
 - a. supply an exposition adequate to allow a ready appreciation of the precise nature of the Board Notification matter;
 - b. supply an exposition adequate to allow a ready appreciation of the extent to what the Board Notification matter might have a bearing upon the particular facility before the board;
 - c. in the event a conclusion with regard to the safety or environmental significance of the Board Notification matter is presented, set forth the reasoning underlying that conclusion sufficient to allow the board to make an informed judgment on the validity of the conclusion; and

- d. where the board has limited jurisdiction, spell out the possible relationship between the subject matter of the notification and one or more of the issues before the board.

C. DETERMINATION OF RECOMMENDATIONS FOR BOARD NOTIFICATION BY TECHNICAL REVIEW GROUPS AND PROJECT MANAGERS

The Board Notification policy is applicable to operating license proceedings as well as construction permit proceedings. In these proceedings the staff will send new information relevant and material to safety or environmental issues to the Boards regardless of the specific issues which have been placed in controversy. This practice includes proceedings for the conversion of provisional to full-term operating licenses. In hearings concerning operating license amendments Board Notification is limited to the issues under consideration in the hearing. All staff members are responsible for reviewing all information received in the course of their assigned tasks, including reports identified by the Research and Standards Coordination Branch as being appropriate for consideration for Board Notification, to determine whether it may be related to licensing proceedings and may represent relevant and material new information which should be provided to appropriate Boards.

Information received from outside sources and considered to be suitable for Board Notification should be handled in an expeditious manner. Some examples of information from outside sources are: (1) the reporting of errors discovered in a vendors Emergency Core Cooling System (ECCS) models or codes which could result in changes to analyses previously evaluated and discussed in the SER, (2) the reporting of geological features which could result in significant changes to those previously reported by the applicant and evaluated by the staff as discussed in the SER, and (3) those reports identified by the Research and Standards Coordination Branch as being appropriate for consideration for Board Notification.

Internally generated information that could reasonably be regarded as putting a new or different light upon an issue before Boards should also be reported as expeditiously as practicable. However, the Commission's policy recognizes the difficulty of determining the point when an individual staff member's perceived concern has developed into a staff issue of sufficient importance that Boards are to be notified. In accordance with the Commission's policy, internally generated information should be provided to Boards at the point when the staff determines that it is necessary to get more information about a problem from a source external to the staff. That is, if such new information is determined to be of sufficient importance to seek further information, analyses, tests, etc., from licensees or vendors, NRC contracts, or others outside the NRC staff, then the issue has developed to the point where concerned Boards should be informed.

As for internally generated information, technical papers and journal articles should be provided to Boards at a point when the staff determines that (1) such information is of sufficient importance to call into question staff positions and criteria or (2) the staff has determined to seek further information, analyses, tests, etc., from licensees, vendors, NRC contractors or others outside the staff.

1. Staff members should provide promptly the following information, through their management, to the Director, Division of Licensing:
 - a. The item recommended for notification of Boards.
 - b. An exposition adequate to allow a ready appreciation of the precise nature of Board Notification matter.
 - c. Considerations regarding relevancy and materiality; i.e., putting a new or different light upon an issue before the Board or raising a new issue.
 - d. An exposition adequate to allow a ready appreciation of the extent to what the Board Notification matter might have a bearing upon the particular facility before the Board.
 - e. A statement as to the perceived significance of the information as it may affect current staff positions. (A clear assessment of the significance is not required at this time and the recommendation should not be delayed in order to permit lengthy determinations. If a clear assessment and final resolution is available; it obviously provides for a clean Board submittal. For all recommendations which do not contain a final resolution followup action is required to inform the Boards as to the ultimate staff disposition.)
 - f. In the event a conclusion with regard to the safety or environmental significance of the Board Notification matter is presented, set forth the reasoning underlying that conclusion sufficient to allow the Board to make an informed judgment on the validity of the conclusion.
 - g. Where the Board has limited jurisdiction, spell out the possible relationship between the subject matter of the notification and one or more of the issues before the Board.

- h. If the information relates to a specific docket, a statement as to possible applicability to other dockets.
2. NRR also has a responsibility for identifying information potentially relevant and material to Boards considering facilities licensed under Part 70 and under the cognizance of the Office of Nuclear Material Safety and Safeguards (NMSS). Staff members should make any such recommendations through their management to the Director, Division of Licensing. The information provided should, to the extent possible, conform to that listed in Item 1. above. The Director, Division of Licensing, will forward the Board Notification material to the Director, Office of Nuclear Material Safety and Safeguards.
3. Recommendations may be judged by the Director, Division of Licensing, not to be material and relevant and a memorandum to that effect will be provided to the originator. If the originator still feels that the information should be provided to Boards, he or she should so state in a followup recommendation. Such a followup recommendation will be processed through the normal Board Notification channels. Although comments may be added indicating disagreement by those who judged the information not to be relevant and material, it will be forwarded to the Board.
4. Board Notifications on differing professional opinions will follow the procedures of NRC Manual Chapter 4125, "Differing Professional Opinions."

D. PROCESSING OF BOARD NOTIFICATION RECOMMENDATIONS

1. The key to commencement of Board Notifications on a specific case is the establishment of the date for the beginning of evidentiary hearing and issuance of related notice by the Board. Prior to 30 days before the hearing, new material which is considered material and relevant to a proceeding is presented to the Boards via SER supplement or other documents. However, if there are items that have not been appropriately disposed of, a summary list is to be provided by the project manager to the Board 30 days before the start of the hearing. For cases within 30 days of (or during) the evidentiary hearing new material found material and relevant shall be forwarded promptly to the Board according to these procedures.
2. OELD will provide DL with periodic updates of a list of current proceedings for facilities under the cognizance of DL, indicating whether the Licensing Board, Appeal Board or Commission has jurisdiction over proceedings.

3. The Office of the Director, DL, will establish and maintain the record-keeping system related to all Board Notification matters. This will include a log of current proceedings and a detailed list of issues under consideration.
4. The Director, Division of Licensing, shall review all recommendations and determine whether they are relevant and material (5 working days from logging). Recommendations containing information considered to be directly related to a specific case are also reviewed for applicability to other cases. If it is determined that a recommendation is not considered to be relevant and material, a memorandum to that effect is sent to the recommending parties. If the information and accompanying recommendation are not clear enough for a determination to be made, the Director will request clarifying information from the originator.
5. For instances prior to 30 days of the evidentiary hearing, the Director, Division of Licensing, shall forward a memorandum to the cognizant DL Assistant Director(s) advising them that the item be brought to the attention of the Board through incorporation in the SEF or as supplemental staff testimony. A copy of the memorandum will be sent to the originator. The project manager is responsible for seeing that the item is covered in evidentiary documents unless it has been determined that the item has been resolved and that Board Notification is not required. Final disposition shall be reported to the Office of the Director, DL (Board Notification Coordinator).
6. For instances within 30 days of (or during) the evidentiary hearing, the Director, Division of Licensing, shall forward a memorandum to the cognizant DL Assistant Director advising them that the item must be brought promptly to the attention of the appropriate Boards. The cognizant DL Assistant Director shall assure that the item is brought promptly to the attention of the Boards (5 working days from receipt of the Director's memorandum). Copies of the Board Notification shall be sent to the originator, technical review group, Office of the Director, DL (Board Notification Coordinator) and OELD (Hearing Division Director and Chief Counsel).
7. A finding by the Director, Division of Licensing, with regard to Board recommendations shall be reviewed by the DL Assistant Directors for applicability to proceedings related to applications for construction permits, post-CP proceedings, applications for operating licenses, as well as proceedings relating to issuance of license amendments. Proceedings related to research and test facilities licensed under Part 50 are to be taken into consideration also.

OFFICE OF INVESTIGATIONS

INVESTIGATIVE PROCEDURE MEMORANDUM NO: 83-017

SUBJECT: PROCEDURE FOR DETERMINING SUSPECTED REGULATORY VIOLATIONS

OBJECTIVE:

To provide specific guidance for determining whether or not an allegation involves the type of wrongdoing within the investigative purview of OI. |

GENERAL POLICY:

OI investigations should commence with an assessment of the allegation followed by the identification of the regulatory violations, if any, indicated by the allegations. The potential violations and their component elements should be made a part of the Background Section of the ROI. The requestors of investigations will normally provide their identification of the potential violations at the time of their requests. All ROI references to violations should include statements which indicate that the investigator discussed the initial allegations or preliminary investigative findings with an appropriate official to help determine what violations, if any, were indicated by the allegations or preliminary findings. That official should be identified by name and title in the ROI.

DISCUSSION:

The most successful investigations are those which begin with the development of a plan of action. That plan should evolve from the initial identification of the investigation's purpose or objective. At the direction of the Commission, OI investigations should focus upon allegations of wrongdoing by licensees, applicants, contractors or vendors (but not NRC employees or NRC contractors). Although not explicitly stated, the allegations of wrongdoing should relate directly to specific NRC requirements or regulations. Therefore, a mandatory first step of any OI investigation is to determine which, if any, specific NRC regulations or requirements may have been violated.

As indicated above, this normally will be done by the requestor at the time of the request. In those instances where this is not done, it is incumbent on the investigator to do so. In many instances the OI investigator may not possess the necessary technical expertise to make that determination. In such instances, the investigator should avail himself of the counsel of personnel whose professional knowledge and position in the organization can assist the investigator in identifying what potential violations may exist. This normally will be at the level of division director or above. The identified regulatory requirements should then form the foundation of the investigative plan. Should this procedure produce no indication of violations of NRC requirements or Federal Statutes, then the allegations may be insufficient to warrant investigation.

Once such requirements are identified, the investigator should then determine what specific elements constitute each putative violation. The objective is to reduce the alleged violations into their composite parts so that the investigator will know what acts of commission or omission would constitute a wrongdoing.

When this point is reached the investigator can then formulate a plan based upon those acts. If this procedure is followed, the investigator will have a concise method for identifying suspected violations, determining specific acts which would constitute those violations, and assembling material facts related to the allegations. It should be noted that the same approach can and should be used at any time during the investigation when investigative findings indicate a possible violations not indicated by the original allegation.

The above discussion relates to the initial phases of the investigation. It is neither desirable nor permissible to attempt to set forth in the final report the specific violations which may or may not be demonstrated by the investigations as this is the responsibility of the requestor, other NRC managers, or adjudicatory bodies.

For purposes of this IPM, the term "NRC requirements" is used to describe NRC Regulations, appropriate statutory provisions, license conditions, technical specifications, orders, licensee commitments, or any other regulatory requirement the violation of which could lead to the imposition of enforcement sanctions.

QUESTION 134. When the Commission established the Office of Investigation it indicated that OI would report directly to the Commission for an interim period only. More than a year has passed since OI was established, yet it still reports to the Commission. Does the Commission plan to move OI under the Executive Director of Operations?

ANSWER.

Based on recommendations from both the EDO and the Director, OI, the Commission voted earlier this year to retain OI as a Commission-level office. the Commission may reconsider the issue of whether to move OI under the Executive Director for operations early next year.