



# OFFICE OF INVESTIGATIONS

## ANNUAL REPORT

FY 2006

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# EXECUTIVE SUMMARY

This report provides the Commission with the results of cases completed by the Nuclear Regulatory Commission's (NRC's) Office of Investigations (OI) during fiscal year (FY) 2006 (reference SRM COMJC-89-8, dated June 30, 1989). This is the 18<sup>th</sup> OI annual report.

As stated in the NRC's Strategic Plan for FY 2004–FY 2009, the NRC's mission is to license and regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. The NRC's vision is excellence in regulating the safe and secure use and management of radioactive materials for the public good. The mission and vision provide the framework for the agency's strategies and goals, which in turn guide the allocation of resources across the agency. OI aligns with the agency's regulatory programs and supports its strategic objective to enable the use and management of radioactive materials and nuclear fuels for beneficial civilian purposes in a manner that protects public health and safety and the environment, promotes the security of our Nation, and ensures that regulatory actions are open, effective, efficient, realistic, and timely.

OI conducts investigations of alleged wrongdoing by individuals or organizations that are NRC licensees or certificate holders, applicants for NRC licenses or certificates, or vendors or contractors thereto. Additionally, during the course of an investigation, OI may discover potentially safety-significant issues that are not related to wrongdoing. OI forwards this information to the technical staff in a timely manner for appropriate action. OI also provides assistance to the staff when requested. Generally, "assists to staff" are matters of regulatory concern for which the staff has requested OI's investigative expertise but which do not involve a specific allegation of wrongdoing.

OI consists of four regionally based field offices reporting to OI Headquarters. OI reports to the Deputy Executive Director for Materials, Waste, Research, State, Tribal and Compliance Programs and supports the reactor and materials programs. In FY 2006, on the average, there were 30 special agents and 7 operational support staff nationwide. The average experience of an OI special agent in FY 2006 was approximately 18 years in Federal law enforcement.

During FY 2006, NRC received 610 allegations regarding potential violations of its rules, regulations, or requirements. The 610 allegations represent a 5% decrease from the 642 received in FY 2005.

The total number of cases in the OI inventory during FY 2006 was 266, a 1% increase from 264 in FY 2005. Of the 266 cases, 57 were assists to staff. OI closed 215 of the cases, or 81% of the total inventory. The appendix to this report contains a statistical summary of cases opened and closed during FY 2006.

In FY 2006, OI continued to focus on increasing effectiveness, efficiency, and productivity in management, organizational, and process-related activities.

Significant achievements during FY 2006:

- Of the 161 investigations closed by OI, 99% developed sufficient information to reach a conclusion regarding wrongdoing. This exceeded OI's performance goal of 90%.
- Of the 159 investigations closed with sufficient information to reach a conclusion regarding wrongdoing, 81% were closed in 10 months or less. This exceeded OI's performance goal of 80%.
- Of the 54 assists to staff closed, 85% were completed within 90 days, exceeding OI's performance goal of 70%.
- OI processed 72 actions resulting from FOIA requests during FY 2006.
- OI participated in various Department of Justice Anti-Terrorism Advisory Councils related to national security concerns and counterterrorism.
- During FY 2006, OI investigative findings were considered in approximately 36% of the agency's escalated enforcement items.<sup>1</sup>

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<sup>1</sup>An escalated enforcement item is an action involving Severity Level I, II, or III violations; violations with white, yellow, or red significant determination process findings; civil penalties; orders; and impositions.



# CASES

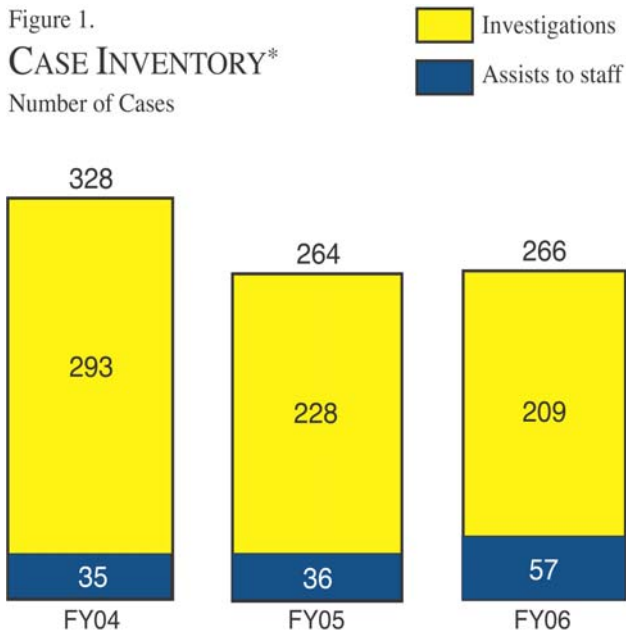
## Analysis of Case Inventory

Figure 1 shows the OI case inventory from FY 2004 through FY 2006. The total case inventory in FY 2006 was 266 cases, of which 99 cases were carried over from FY 2005. The inventory included 50 assists to staff, 7 carried over from FY 2005. Generally, assists to staff are matters of regulatory concern for which the staff has requested OI's investigative expertise but which do not involve a specific allegation of wrongdoing. In FY 2006, OI closed 215 cases, 81% of the cases in the inventory.

Figure 1.

### CASE INVENTORY\*

Number of Cases



\*Cases carried over from previous year, plus cases opened in current year

## Analysis of Cases Opened

During FY 2006, NRC received 610 allegations regarding potential violations of its rules, regulations, or requirements. The 610 allegations represent a 5% decrease from the 642 received in FY 2005.

OI opened 167 cases in FY 2006 in the following categories:

Material False Statements	17
Violations of Other NRC Regulatory Requirements	48
Discrimination	52
Assists to Staff	50

Figure 2 shows the number of cases opened from FY 2004 through FY 2006. In FY 2006, there was a 1% increase in cases opened from FY 2005. Discrimination investigations led other categories and increased by 30%. Investigations of suspected material false statements decreased by 56%; and assists to staff increased by 52%. Violations of other NRC regulatory requirements decreased by 11%.

Figure 2.

### CASES OPENED BY CATEGORY

Number of Cases

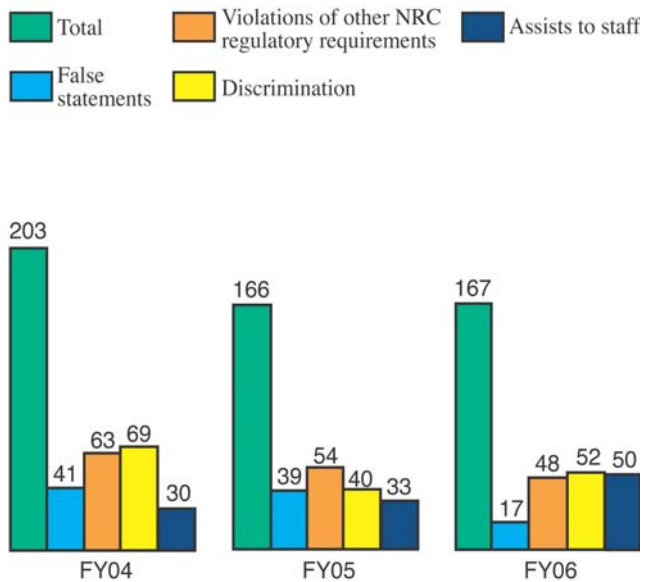
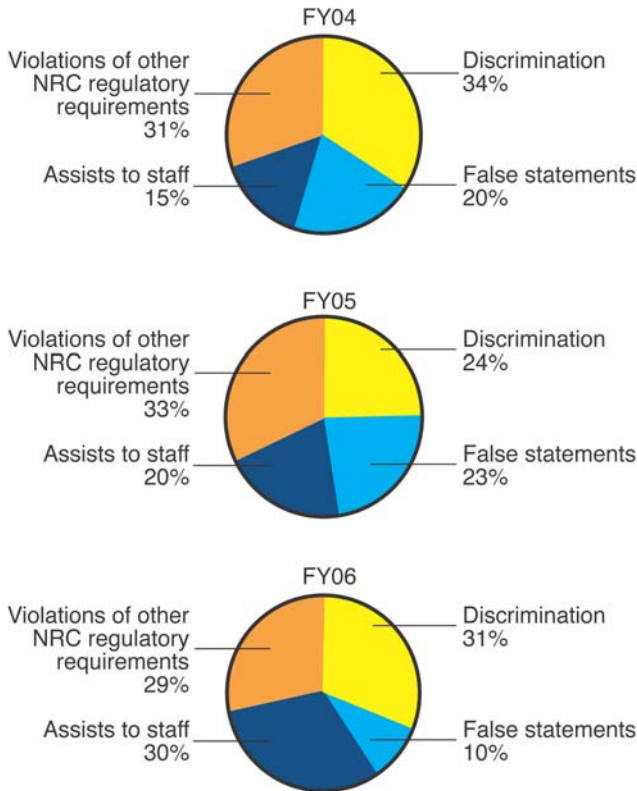


Figure 3 shows the distribution of cases opened from FY 2004 through FY 2006 in the various categories. The FY 2006 distribution shows that 31% of the cases opened were discrimination investigations, 29% were investigations of violations of other NRC regulatory requirements, 10% were material false statement investigations, and 30% were assists to staff.

Figure 3.

PERCENTAGE OF CASES OPENED BY CATEGORY

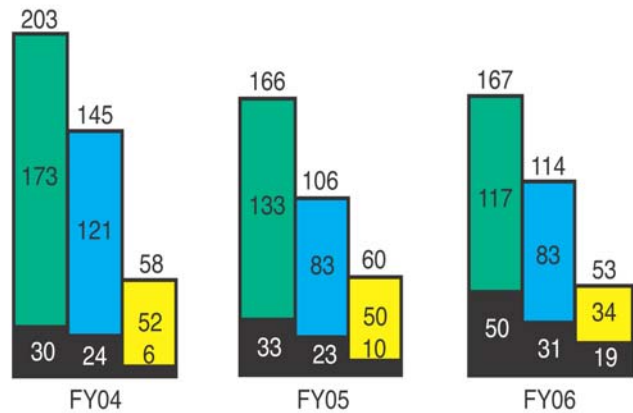
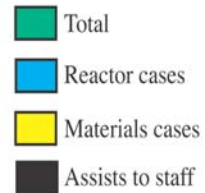


The graph in Figure 4 shows the distribution of cases opened from FY 2004 through FY 2006 between the reactor and the materials programs. From FY 2005 to FY 2006, overall reactor-related cases increased 8%, with no appreciable change (less than 1%) in reactor investigations and a 35% increase in reactor assists to staff. Materials-related cases decreased overall by 12%, with a 32% decrease in materials investigations and a 90% increase in materials assists to staff.

Figure 4.

CASES OPENED BY REACTOR/MATERIALS

Number of Cases



# Analysis of Cases Closed

Figure 5 shows the number of cases closed from FY 2004 through FY 2006. The 215 cases closed during FY 2006 represent a 30% increase from the number closed in FY 2005. The cases are categorized as follows:

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Material False Statements	28
Violations of Other NRC Regulatory Requirements	67
Discrimination	66
Assists to Staff	54

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Figure 5.  
**CASES CLOSED BY CATEGORY**  
Number of Cases

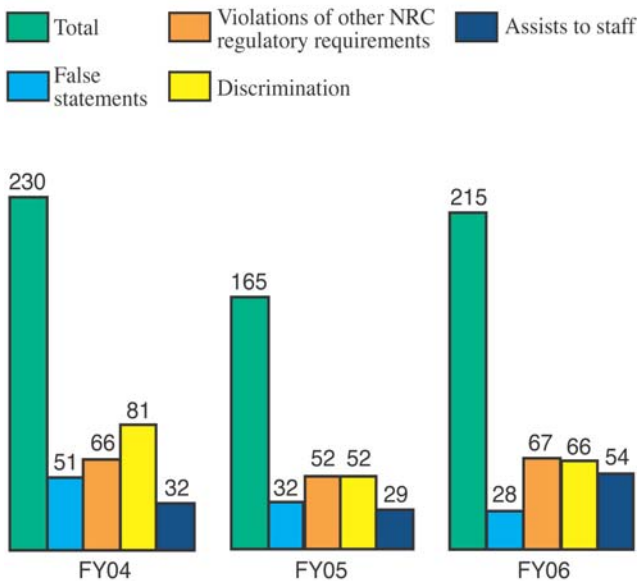
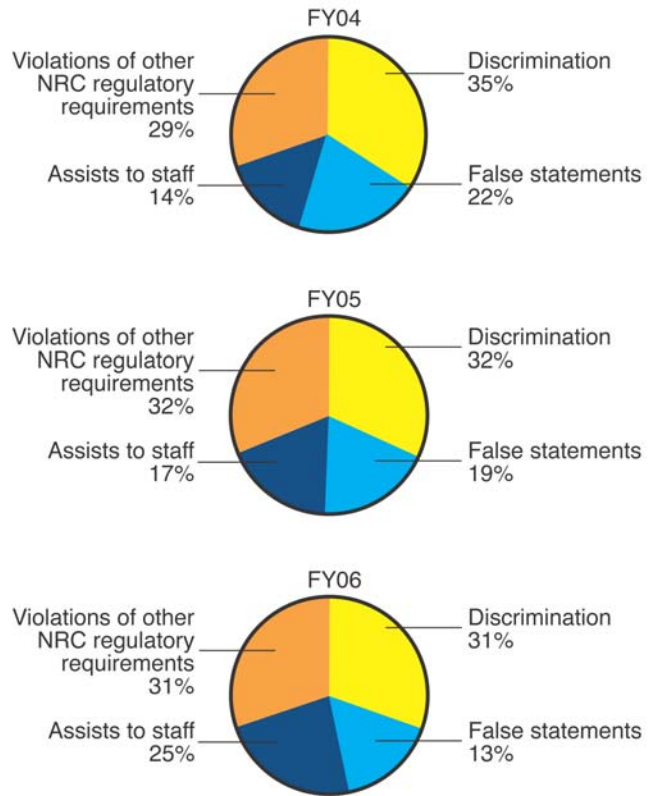


Figure 6 is a comparison of the percentages of cases closed, by category, from FY 2004 through FY 2006. Material false statement investigations made up 13% of the closed cases in FY 2006, discrimination investigations 31%, investigations involving other violations of NRC regulatory requirements 31%, and assists to staff 25%.

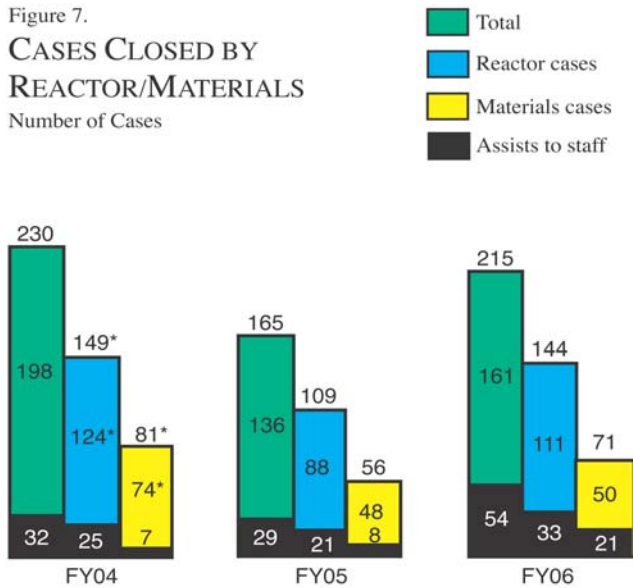
Figure 6.  
**PERCENTAGE OF CASES CLOSED BY CATEGORY**



The graph in Figure 7 shows the distribution of cases closed from FY 2004 through FY 2006 between the reactor and the materials programs. From FY 2005 to FY 2006, overall reactor-related cases increased 32%, with a 26% increase in reactor investigations and a 57% increase in reactor assists to staff. Materials-related cases increased 27% overall, with a 4% increase in materials investigations and a 163% increase in materials assists to staff during the same period.

Figure 7.

**CASES CLOSED BY REACTOR/MATERIALS**  
Number of Cases



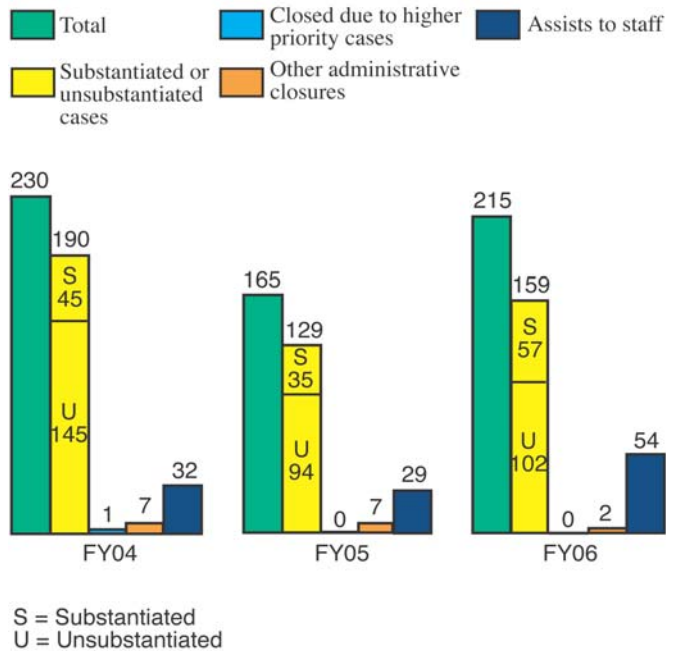
Of the 215 cases closed in FY 2006—

- 57 investigations were closed after substantiating one or more of the allegations of wrongdoing.
- 102 investigations were closed after wrongdoing was not substantiated
- 2 investigations were closed for administrative reasons.
- 54 of the total number of cases were assists to staff.

Figure 8 shows the closures by category. Substantiated and unsubstantiated investigations are combined.

Figure 8.

**CASES CLOSED BY TYPE OF CLOSURE**  
Number of Cases

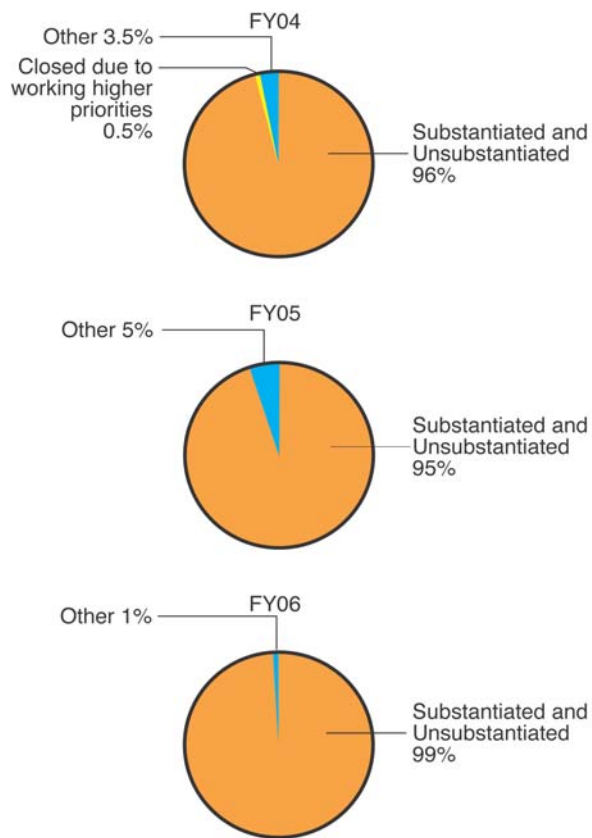


OI's effectiveness in supporting the NRC's regulatory mission is measured by the number of investigations that develop sufficient information to reach a conclusion regarding wrongdoing. The technical, legal, and enforcement staffs use the substantive information developed during these investigations as the basis for enforcement and other regulatory decisions. Additionally, if an investigation substantiates wrongdoing, it is referred to the Department of Justice for prosecutorial review. Two of OI's performance goals are that 90% of investigations closed will develop sufficient information to reach a conclusion regarding wrongdoing and that 80% of investigations closed with sufficient information to reach a conclusion regarding wrongdoing will be completed within 10 months.



Figure 9 shows the disposition of investigations closed from FY 2004 through FY 2006. In FY 2006, 99% of the investigations developed sufficient information to reach a conclusion regarding wrongdoing, exceeding the OI performance goal of 90%.

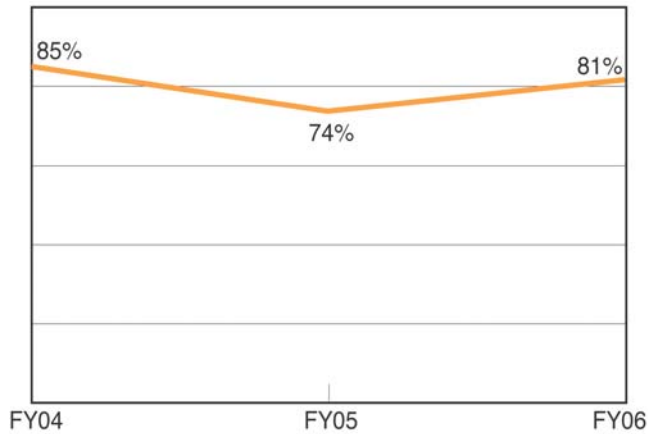
Figure 9.  
**PERCENTAGE OF INVESTIGATIONS CLOSED AS SUBSTANTIATED AND UNSUBSTANTIATED\***



\*Based on number of cases closed, less number of assists

Figure 10 shows the percentage of investigations closed in 10 months or less with sufficient information to reach a conclusion regarding wrongdoing. In FY 2006, 81% were completed within 10 months, exceeding the OI performance goal of 80%.

Figure 10.  
**PERCENTAGE OF SUBSTANTIATED OR UNSUBSTANTIATED INVESTIGATIONS CLOSED WITHIN 10 MONTHS**



In FY 2005, a third performance measure was added, i.e., 70% of assists to staff will be completed in 90 days or less. During FY 2006, OI completed 85% of assists to staff in 90 days or less.

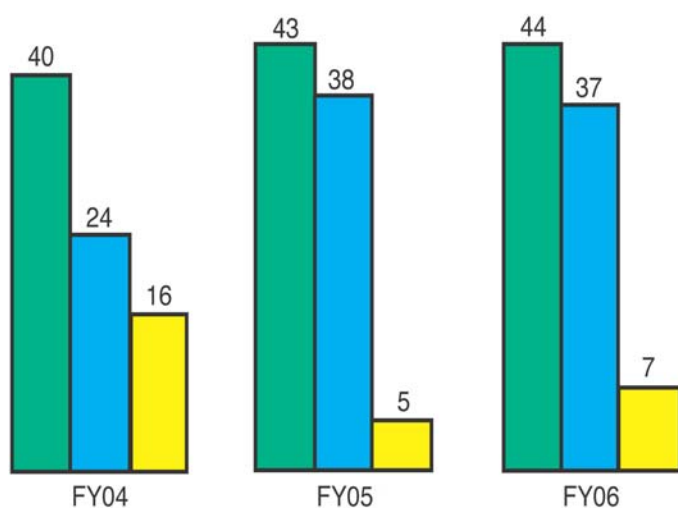
## Management of Cases

The case-specific staff hours in Figure 11 show an increase from FY 2005 to FY 2006 (from 43,000 to 44,000 investigative hours). The FY 2006 ratio of case activities related to planning, field work, and analyzing information to case administration (FOIA and other miscellaneous activities) is 84:16.

Figure 11.

### CASE-SPECIFIC STAFF HOURS

In thousands



## Criminal Referrals

In FY 2005, OI referred 57 cases to the Department of Justice for prosecutorial review.

# SIGNIFICANT CASES

## PEACH BOTTOM ATOMIC POWER STATION

An investigation was initiated to determine whether a contract worker, a former roving firewatch at Peach Bottom Atomic Power Station, deliberately failed to complete rounds and then deliberately falsified the watch log records. The investigation revealed that the former roving firewatch, on nearly 200 occasions for over a one-month period, deliberately failed to conduct the fire watch surveillance rounds and then provided false information on the logs. Firewatch surveillance is required as a compensatory measure as documented in the Technical Requirements Manual. OI's investigation resulted in a confession from the former roving firewatch and acceptance for prosecution by the U. S. Attorney's Office for the Middle District of Pennsylvania. On March 28, 2006, the former roving firewatch pleaded guilty to one count of falsification of firewatch patrol round sheets, pursuant to 18 U.S.C. Section 1001, and was sentenced to two years' probation and ordered to pay a special court assessment. The NRC issued a Non-Cited Violation to the licensee for the deliberate actions of the former roving firewatch.

## BEAVER VALLEY POWER STATION

An OI investigation determined that a contract engineer at Beaver Valley Power Station deliberately provided information to the licensee which falsely indicated completion of an engineering change package (ECP) for the reactor vessel head project. As part of the ECP, the contract engineer indicated completion of all design interface evaluations when the vast majority were incomplete. The contract engineer's deliberate actions placed the licensee in violation of NRC requirements. The licensee chose to participate in the NRC's Alternative Dispute Resolution program, while the contract engineer admitted culpability to the NRC via letter. Enforcement action is pending in this matter.

## ST. LUCIE NUCLEAR PLANT

This investigation was initiated to determine whether a former security officer (SO) with Wackenhut Security at St. Lucie Nuclear Plant willfully failed to report an arrest. The SO was arrested in November 2004 for habitual traffic offenses while employed at St. Lucie. Investigation revealed that there were at least seven instances in which the SO was advised of the requirement to report arrests. The former SO initially claimed ignorance of the requirement to report arrests, but subsequently admitted to knowledge of the requirement and acknowledged electing not to report the arrest because of fear of losing employment. Based on the evidence developed during the investigation, OI substantiated the former contract SO deliberately failed to report an arrest, which was in violation of licensee procedures. The NRC issued a Non-Cited Violation to the licensee for the deliberate actions of the former SO.

## WESTINGHOUSE ELECTRIC COMPANY

An OI investigation determined an engineer at the Westinghouse Electric Company Columbia Fuel Site willfully failed to obtain a criticality safety review prior to ordering a new sponge blasting media as required by operating procedure. Sponge blasting media systems are generally used to remove and/or decontaminate surface areas with no damage to the substrate. The engineer claimed a criticality review was not necessary because the aluminum oxide media substituted for the authorized sponge media was "like kind." Investigation revealed the sponge blasting process was identified as safety significant control (SSC) and procedures stated specifically that "like kind" did not apply to SSC. Documentation indicated the engineer was present at meetings in which sponge blast media was identified as SSC. OI's investigation substantiated the engineer willfully violated licensee operating procedures by failing to obtain a criticality review prior to effecting a change for a sponge blasting media. The NRC issued a Severity Level III Notice of Violation to the licensee for unauthorized use of sponge blasting media.

## **TURKEY POINT NUCLEAR PLANT**

This investigation was initiated to determine whether a contract security officer (SO) employed with Wackenhut Security (Wackenhut) at the Turkey Point Nuclear Plant (Turkey Point) willfully removed firing pins from two response weapons, rendering them inoperable. Also, this investigation sought to determine whether on two separate occasions the firing pins from response weapons were willfully damaged, and whether a Turkey Point security manager and a Wackenhut project manager willfully provided false and/or inaccurate information in several condition reports, which included weapons testing relative to the above incidents. Based upon evidence developed during the investigation, OI substantiated a contract SO deliberately removed the firing pins from two response weapons and a second SO deliberately provided a false official statement about the co-worker's removal of the firing pins. Additionally, OI substantiated a third SO deliberately broke a firing pin and provided a false official statement concerning the broken firing pin incident. Further, the OI investigation concluded a Turkey Point security manager and a Wackenhut project manager willfully provided inaccurate information to the NRC, disregarding available facts and circumstances indicating the missing and damaged firing pins incidents were the result of intentional acts. This matter was referred to the Department of Justice and prosecutorial evaluation is pending.

## **DAVIS-BESSE NUCLEAR POWER PLANT**

As reported in the FY 2006 Annual Report, an investigation was initiated based on multiple allegations of willful misconduct by FirstEnergy Nuclear Operating Company (FENOC) personnel, including a contractor at the Davis-Besse Nuclear Power Plant (Davis-Besse), regarding the reactor vessel head. The primary allegation investigated was whether FENOC personnel deliberately provided incomplete and/or inaccurate information in its responses to NRC Bulletin 2001-01, "Circumferential Cracking of Reactor Pressure Vessel Head Penetration Nozzles." Based on evidence developed during this investigation, the case was referred to the Department of Justice (DOJ) for prosecutorial review and a Special Grand Jury was convened. OI and NRC technical staff provided support to the Environmental Crimes Section of DOJ and to the U.S. Attorney's Office for the Northern District of Ohio in response to the Grand Jury investigation.

On January 20, 2006, DOJ announced that FENOC agreed to pay \$28 million in penalties, restitution, and community service projects as part of an agreement to defer prosecution of the company. This was the largest monetary penalty in the history of the commercial nuclear power industry. The terms of the deferred prosecution agreement involved an admission of culpability by FENOC, in which the company admitted that the government could prove that its employees, acting on its behalf, knowingly made false representations to the NRC in an attempt to persuade the NRC that Davis-Besse was safe to operate. In addition, a design engineer accepted and entered into a deferred prosecution agreement with the government. Further, two former employees and a former contractor of FENOC were charged in a five-count indictment for allegedly preparing and providing false statements to the NRC. The indictment alleged the individuals falsely represented to the NRC that past inspections of the plant were adequate to assure safe operation.

The NRC had previously initiated enforcement action against FENOC and five individuals following its review of the OI investigation. The NRC issued nine cited violations of NRC requirements and levied a civil penalty of \$5.45 million to FENOC. This civil penalty was the largest fine in NRC history. The failure to comply with NRC regulations and the failure to provide accurate information led to a 2-year shutdown of the Davis-Besse plant for extensive repairs, major management changes, and improvements to the safety culture of the plant. Enforcement actions against the corporation have been concluded. NRC proposed enforcement actions against five individuals. Four individuals were banned from NRC-licensed activities for a period of five years. Two of those individuals elected to enter into Alternative Dispute Resolution. The fifth individual was banned for a one-year period from NRC-licensed activities.

## **KTL INSPECTIONS**

An OI investigation determined the owner and operator of KTL Inspections deliberately violated an NRC Order prohibiting involvement in licensed radiography activities. In December 2004, the NRC issued an Order which immediately prohibited the owner and operator of KTL Inspections from involvement in NRC-licensed activities for a period of five years. OI's investigation revealed that the owner and operator of KTL Inspections utilized gamma sources for industrial radiography on at least nine different dates and almost immediately following receipt of the NRC Order, which prohibited any such activities.

During the time period of this investigation, the owner and operator of KTL Inspections was on federal probation pursuant to a pretrial diversion agreement in a pre-existing but similar case. As a result, the U.S. Attorney's Office for the Western District of Missouri negotiated an amended agreement whereby the total time of probationary supervision for the owner and operator of KTL Inspections was extended from 24 to 33 months.

## **STERIGENICS INTERNATIONAL, INC.**

The investigation determined a general manager for Sterigenics willfully violated an NRC Order, which prohibited the transmission of safeguards information (SGI) on unprotected telecommunication circuits except under emergency or extraordinary conditions. In addition, incomplete and inaccurate information was provided to the NRC during the course of an inspection and the investigation. On September 18, 2006, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$9,600 were issued to the licensee, Sterigenics for a Severity Level II violation involving the failure to properly control and transmit SGI.

## **REED COLLEGE**

An investigation was initiated to determine whether a Reed College senior reactor operator (SRO) deliberately modified the school's research reactor control rod drive circuit without authorization. This investigation determined that on May 10, 2005, the SRO deliberately removed a jumper on the control rod drive circuit. Removal of the jumper prevented the shim rod from being withdrawn, so that the reactor could not be taken to the critical startup condition. This matter was referred to the Department of Justice for prosecutorial review. On September 23, 2005, the former SRO signed an agreement for a pretrial diversion, which stated prosecution would be deferred provided the SRO did not violate any laws and all other conditions and requirements were met. Further, the former SRO agreed not to challenge an administrative ban by the NRC and to provide a full account of conduct to Reed College, and to pay restitution to the U.S. Government in the amount of \$15,000. On September 12, 2006, the NRC banned the former SRO from involvement in NRC-licensed activities for a period of three years.

## **SIGNIFICANT ASSIST**

A letter received by the NRC from concerned individuals reported allegations of potential security-related violations at a nuclear power plant located in Region II. In order to develop more specific information about the concerns, the Office of Investigations (OI) and the NRC technical staff combined efforts and conducted joint interviews of the security staff. During a four-day period, the NRC team interviewed more than 90 security officers employed at the site. The information obtained during these interviews regarding security-related concerns resulted in the initiation of two OI investigations.

## **SIGNIFICANT ACHIEVEMENT**

On October 24, 2006, an OI senior special agent received an Award of Excellence from The President's Council on Integrity & Efficiency and The Executive Council on Integrity & Efficiency (PCIE/ECIE) in recognition of significant contributions to a multi-agency task force investigation. This investigation centered on allegations that Hunt Valve Company of Salem, Ohio, violated quality assurance requirements for the manufacturing of valves for uranium hexafluoride cylinders. As a result of this investigation, a former vice president was sentenced to 24 months imprisonment and 3 years supervised release while a former quality assurance manager was sentenced to 33 months imprisonment and 3 years supervised release. In addition, the court ordered restitution totaled over \$4 million in this case.



# APPENDIX

## OFFICE OF INVESTIGATIONS CASELOAD SUMMARY

FOR THE PERIOD 10/01/2004 TO 09/30/2005

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Cases Open at Start of This Period .....	99
Cases Opened This Period .....	167
Cases Closed This Period* .....	215
Investigations .....	161
Substantiated .....	57
Unsubstantiated .....	102
Higher Priority .....	0
Other .....	2
Assists to Staff .....	54
Cases Open at End of This Period .....	51
Criminal Referrals .....	57

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\* Source:

Alleger/Whistleblower/Intervenor - 117  
NRC (inspector/technical staff) - 55  
Licensee/Licensee Employee Concerns Program - 35  
OI (self-initiated and developed by OI) - 8





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(See instructions on the reverse)

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U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

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Same

10. SUPPLEMENTARY NOTES

11. ABSTRACT (200 words or less)

This report describes Office of Investigations case activities during FY 2006.

12. KEY WORDS/DESCRIPTORS (List words or phrases that will assist researchers in locating the report.)

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