

# OFFICE OF INVESTIGATIONS



## FY 2001 ANNUAL REPORT

February 2002

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# EXECUTIVE SUMMARY

This report provides the Commission with the results of investigations completed by the NRC Office of Investigations (OI) (reference SRM COMJC-89-8, dated June 30, 1989). This is the 13th OI annual report and addresses fiscal year 2001 (FY 2001).

OI conducts investigations of alleged wrongdoing by individuals or organizations who are NRC licensees or certificate holders, applicants for NRC licenses or certificates, or vendors or contractors to these entities. OI is composed of four regionally based Field Offices reporting to OI Headquarters. OI reports to the Deputy Executive Director for Reactor Programs and is responsible for two NRC programs: Reactor Investigations and Materials Investigations. In FY 2001, there were, on average, 31 special agents and 8 operational support staff assigned nationwide. The average experience of an OI special agent in FY 2001 was approximately 21 years in Federal law enforcement.

There were 623 allegations regarding potential violations of its rules, regulations, or requirements received by the NRC during FY 2001. The 623 allegations represented a 9% decrease from the total of 688 received in FY 2000.

The total number of investigations in the OI inventory during FY 2001 was 298, a 9% decrease from FY 2000 (326 to 298). OI closed 210 of these investigations, or 70% of the total inventory. A statistical summary of investigations opened and closed during FY 2001 is contained in the Appendix to this report.

In FY 2001, OI made significant strides toward increasing effectiveness, efficiency, and productivity in management, organizational, and process-related activities. Again this year, many of these improvements were the result of initiatives first identified through field office review visits and other aspects of the continuing OI self-assessment program.

The following are significant achievements during FY 2001:

- The OI goal was to close cases in 9 months. OI achieved this goal by completing cases in an average of 6.4 months.
- Another OI goal was to maintain the percentage of cases in the inventory open longer than 12 months at 9%, or less. OI achieved 7% in FY 2001.
- OI established an informal effectiveness and efficiency goal that at least 75% of cases within the inventory be brought to a full conclusion based on the merits of the case. In FY 2001, OI achieved 95% for such cases.
- In addition to the above performance measures, 98% of all case-specific investigative staff hours were spent on cases brought to a full conclusion based on the merits of the case.
- During this period, OI processed 104 FOIA requests, an 18% increase from FY 2000 (88 to 104), and the second largest number of requests processed by an office within the NRC.
- OI participated with various Department of Justice task forces in counter-terrorism efforts related to NRC-licensed nuclear facilities.
- OI succeeded in establishing a terminal for National Crime Information Center (NCIC) data which assists OI in its investigative mission.
- OI completed the final deployment and implementation of the OI Management Information System (OIMIS), nationwide, which streamlines the information handling process and reduces the administrative burden in investigations.
- OI actively participated in the Discrimination Task Group efforts.

# INVESTIGATIONS

## Analysis of Case Inventory

Figure 1 shows the OI case inventory from FY 1999 through FY 2001. The total case inventory in FY 2001 was 298 cases, a combination of 100 cases carried over from FY 2000 and an additional 198 cases opened in FY 2001. OI closed 210, or 70%, of these cases in FY 2001.

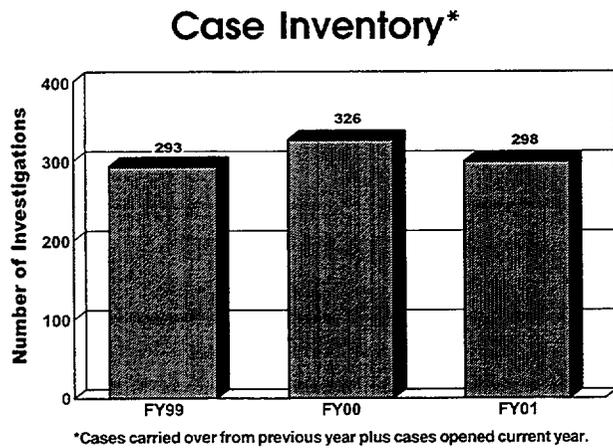


FIGURE 1

## Analysis of Cases Opened

There were 623 allegations regarding potential violations of its rules, regulations, or requirements received by the NRC during FY 2001. The 623 allegations represented a 9% decrease from the total of 688 received in FY 2000.

The 198 investigations opened by OI in FY 2001 are categorized in Figure 2 by major types of alleged wrongdoing as follows:

Discrimination	97
Violations of Other NRC Regulatory Requirements	68
Material False Statements	33

Figure 2 depicts the number of cases opened from FY 1999 through FY 2001. There was a 15% increase in cases opened between FY 1999 and FY 2000 (195 to 224), followed by a decrease of 12% from FY 2000 to FY 2001 (224 to 198). Overall, this represents a 2% increase in cases opened between FY 1999 and FY 2001 (195 to 198). Discrimination cases continued to lead other categories of violations, with an overall 13% increase between FY 1999 and FY 2001 (86 to 97). The number of cases of suspected material false statements and the number of cases which involve other NRC regulatory requirements fluctuated from 109 to 126 and down to 101 over this same period.

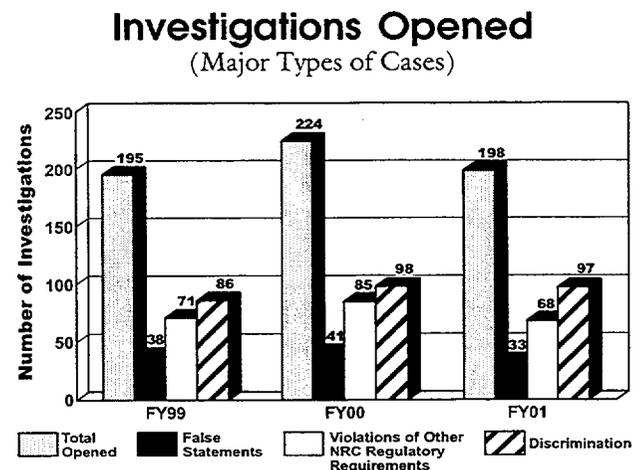


FIGURE 2

Figure 3 indicates the distribution of cases from FY 1999 through FY 2001 by percentage for the categories of cases opened. The FY 2001 distribution shows discrimination cases representing 49% of the cases opened, violations of other NRC regulatory requirements, 34%, and material false statement cases, 17%.

## Investigations Opened

(Percent by Category)

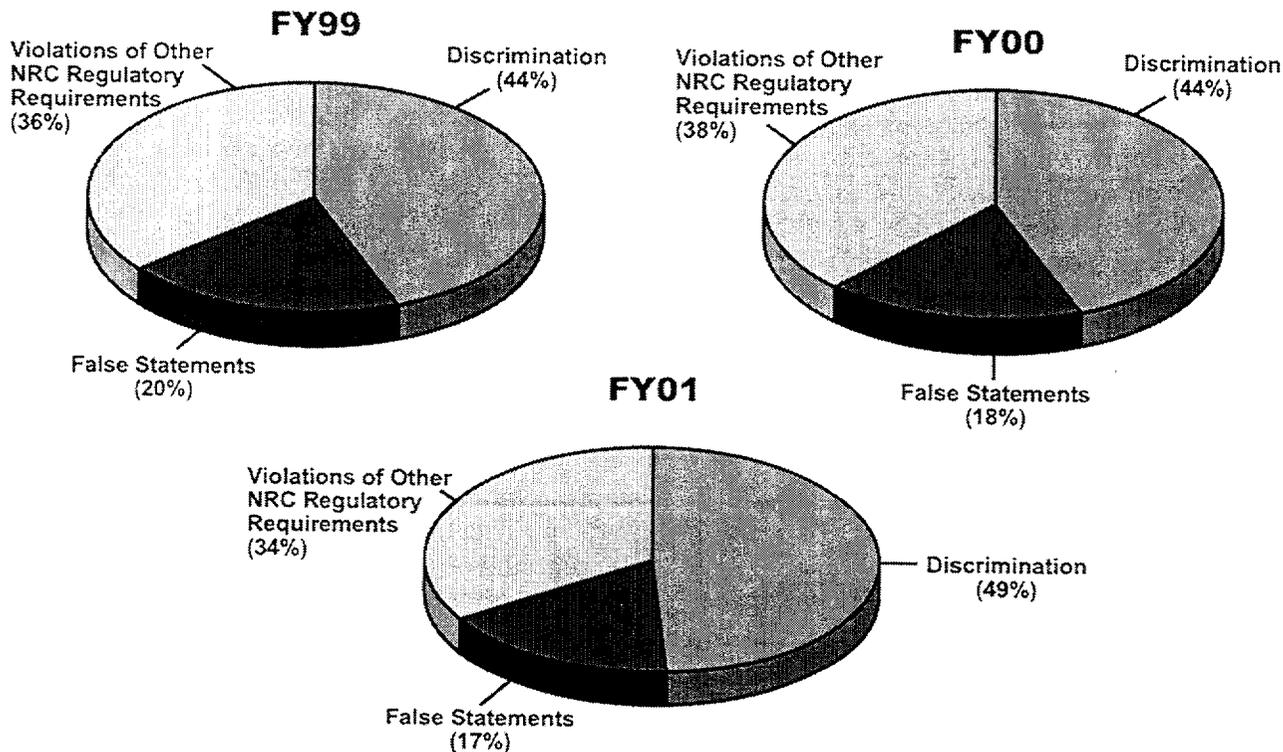


FIGURE 3

The graph at Figure 4 depicts the distribution of cases opened from FY 1999 through FY 2001 by the Reactor Investigation and the Materials Investigation Program arenas. Although reactor-related cases demonstrated an

overall 14% decrease (139 to 119) during the period, the number of materials-related cases increased by 41% (56 to 79).

## Investigations Opened

(Reactor/Materials)

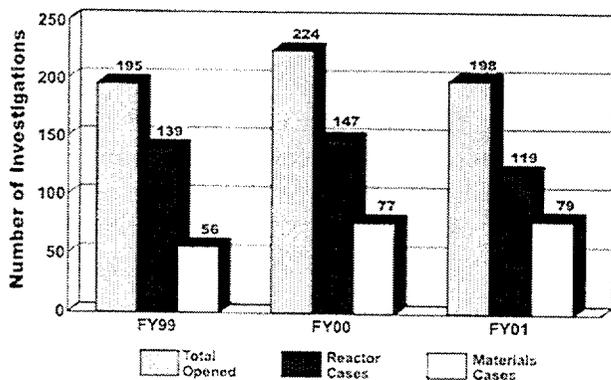


FIGURE 4

## Analysis of Cases Closed

Figure 5 depicts the number of completed investigations in FY 2001, categorizes them by major types of alleged wrongdoing, and compares them to FY 1999 and FY 2000. The number of cases completed for each of the major categories of wrongdoing are as follows:

Discrimination	96
Violations of Other NRC Regulatory Requirements	75
Material False Statements	39

## Investigations Closed (Major Types of Cases)

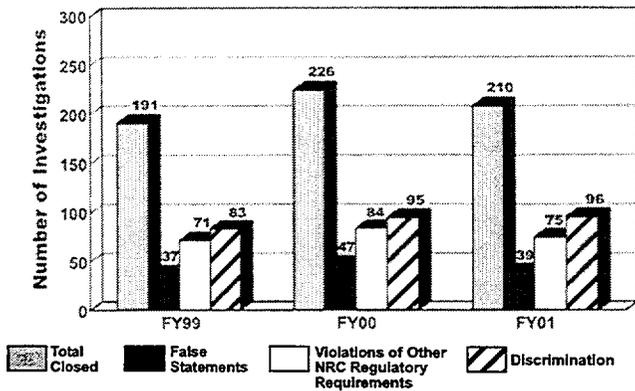


FIGURE 5

Of the 210 investigations completed in FY 2001,

- 44 cases were closed after investigation substantiated one or more of the allegations of wrongdoing.

- 143 cases were closed after investigation did not substantiate wrongdoing.
- 5 were closed after the preliminary evidence developed did not warrant further expenditure of OI resources.
- 2 cases were closed as deferred to the Department of Labor, in keeping with direction from the Commission (SRM 97-147) regarding discrimination allegations.
- 13 cases were closed where OI provided assistance to technical staff inspections.
- 3 were closed for administrative reasons.

Figure 6 is a percentage comparison by category of investigations closed from FY 1999 through FY 2001. Discrimination cases accounted for 46% of the closed cases in FY 2001, cases involving other violations of NRC regulatory requirements, 36%, and material false statement cases, 18%.

## Investigations Closed (Percent by Category)

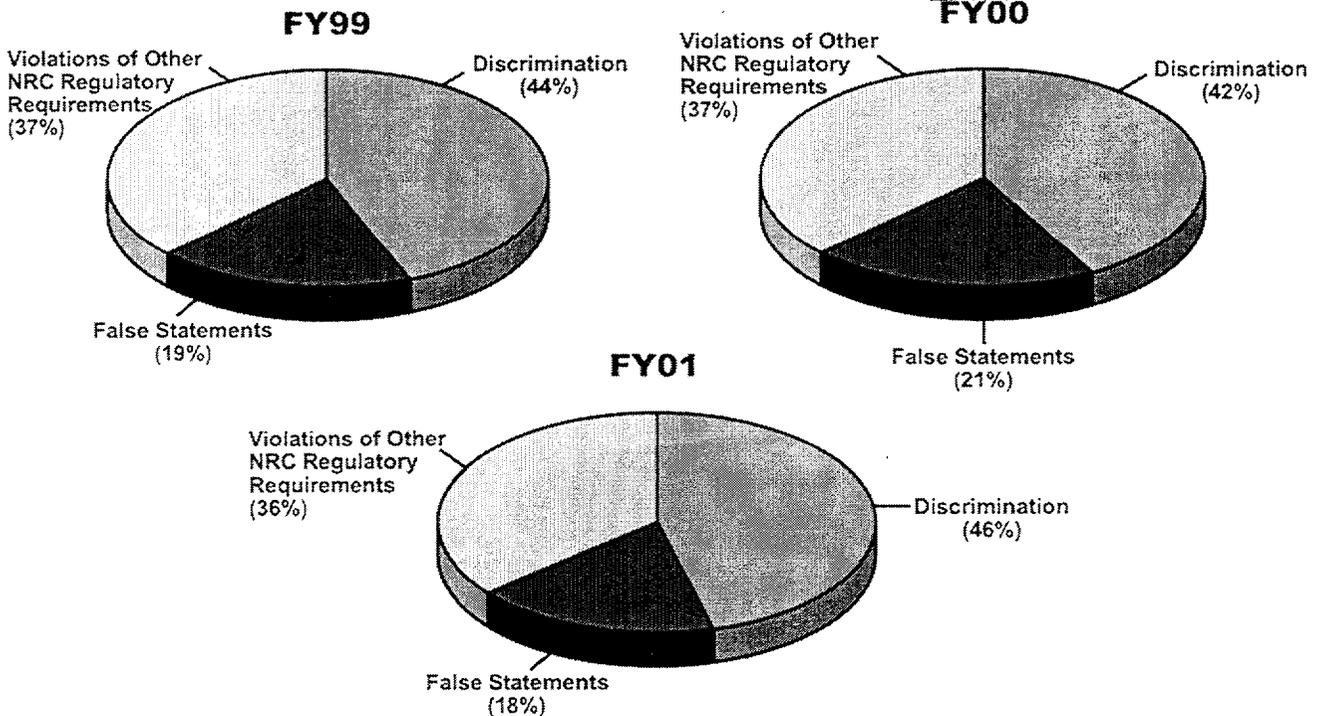


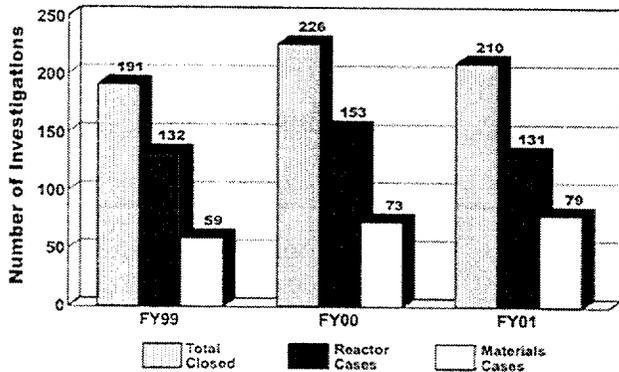
FIGURE 6

The graph at Figure 7 depicts the distribution of cases closed from FY 1999 through FY 2001 by the Reactor Investigation and the Materials Investigation Program arenas. Although reactor-related cases initially increased, then decreased to approximately the same level

as FY 1999 (132 to 131), materials-related cases increased an overall 34% (59 to 79).

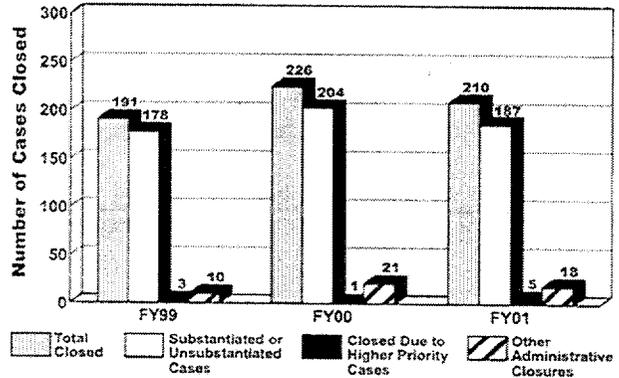
Figure 8 illustrates that in FY 2001 there were a high number of cases brought to a conclusion on the merits as either substantiated or unsubstantiated, as compared to other closures.

**Investigations Closed**  
(Reactor/Materials)



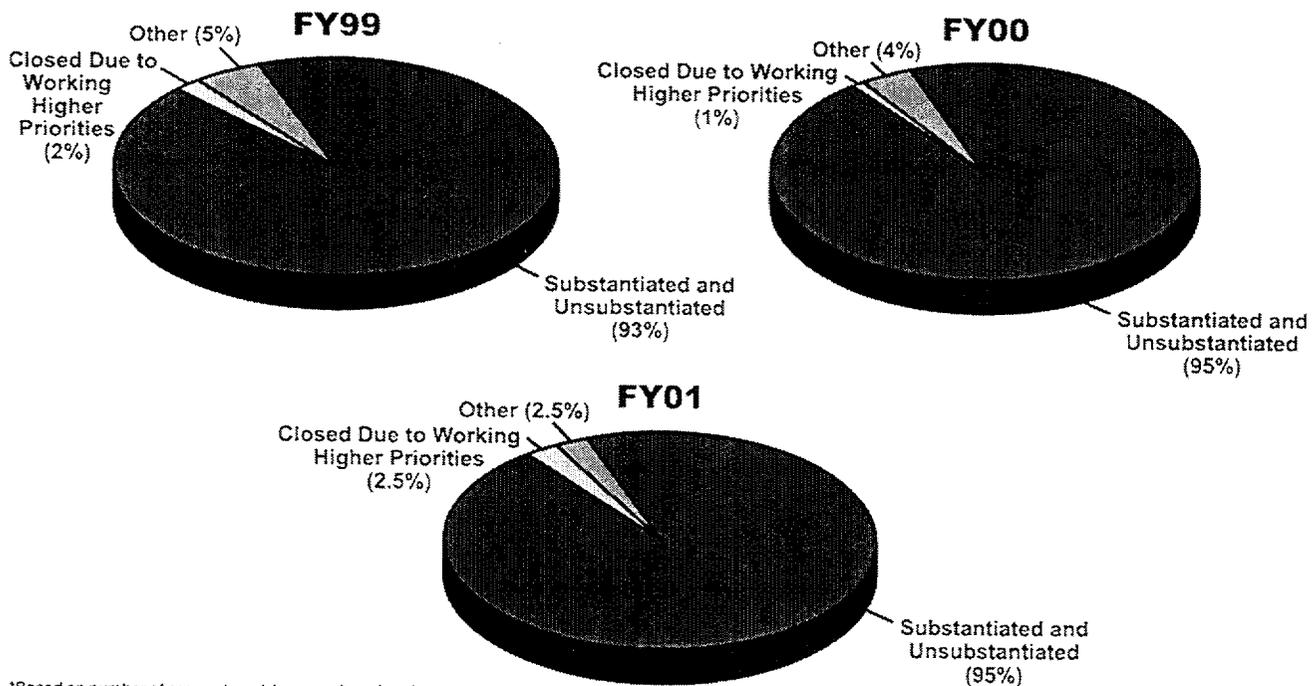
**FIGURE 7**

**Investigations Closed**  
(Category of Closure)



**FIGURE 8**

**Investigations Closed**  
(Percentage Substantiated and Unsubstantiated)\*



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

**FIGURE 9**

This reflects sound resource utilization through efficiencies gained in both the Allegation Review Board (ARB) and the investigative processes.

Figure 9 depicts the disposition of closed cases. The percentage of cases brought to conclusion on the merits remained at 95% during this period, well within the OI performance goal of 75% or above. The evidence developed during these investigations provides the information upon which the technical, legal, and enforcement staffs normally base regulatory decisions. Current staff hour statistics indicate that of the 47,784 staff hours devoted to case-specific investigative activities on cases closed in FY 2001, 98%, or 46,939, were spent on cases brought to conclusion on the merits. These statistics demonstrate the effectiveness and efficiency of the investigative program and the ARB process.

High priority substantiated and unsubstantiated cases are the most time-consuming and routinely the most complex cases in OI's inventory. These high priority cases required an average of 315 hours to close in FY 2001, as compared to an average of 200 hours for normal priority cases. Figure 10 depicts the average number of months in process for the most complex investigations and for all investigations from FY 1999 through FY 2001. The overall number of months to complete cases increased 2% over that period (6.3 months to 6.4 months), while the completion time for OI's most complex (substantiated and unsubstantiated, high priority) cases increased by 27% (6.7 months to 8.5 months). It should be noted that all of these completion times are within the OI goal of 9 months.

Figure 11 depicts the number of cases referred to DOJ from FY 1999 through FY 2001.

### Average Completion Times For Investigations

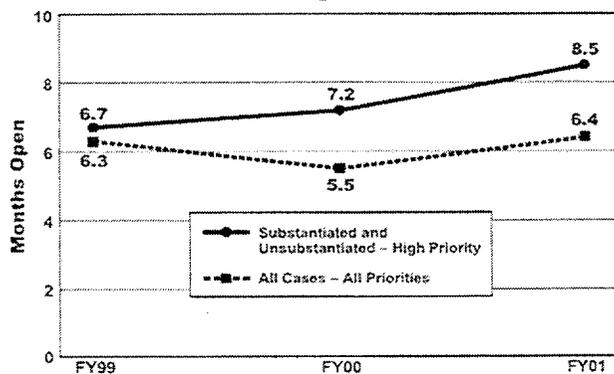


FIGURE 10

### DOJ Referrals

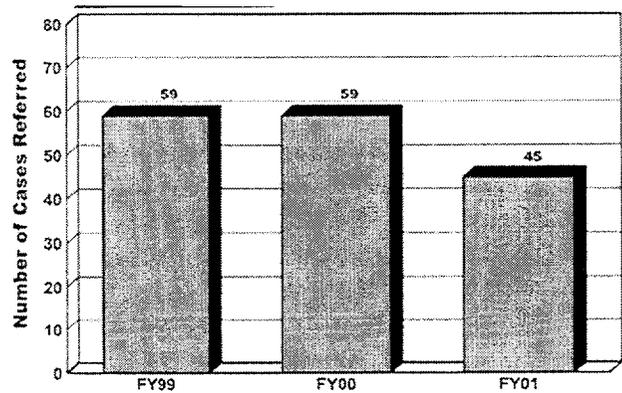


FIGURE 11

## Management of Investigations

Figure 12 shows the number of cases open longer than 12 months as a percentage of the case inventory from FY 1999 through FY 2001. This percentage has remained fairly constant during this period. OI achieved its goal of 9%, or less, in FY 2001 with 7% (8 cases).

**Active Inventory**  
(Percentage of Cases Open Longer Than 12 Months)

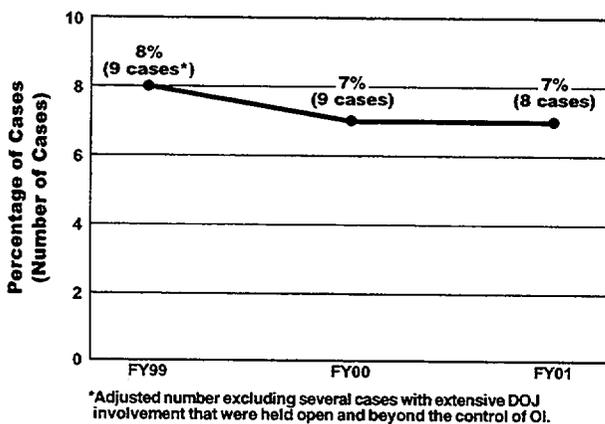


FIGURE 12

Case-specific staff hours are shown in Figure 13, indicating a 6% decrease from FY 1999 through FY 2001 (49,000 down to 46,000 investigative hours). This decrease is primarily due to a 6% decrease in the average number of agents working cases from FY 1999 through FY 2001 (33 to 31). However, there was a 5%

increase in hours between FY 2000 and FY 2001 (44,000 to 46,000) and a 7% increase in investigative hours during the same period (27,000 to 29,000), due to an increase in FTE from 30 in FY 2000 to 31 in FY 2001. The FY 2001 ratio of investigative activities (field work, investigative travel, etc.) to administrative activities (allegation review process, writing the final report of investigation, management review of the case, etc.) is approximately 63 to 37, which is in keeping with OI's general standard of 60 to 40.

**Case-Specific Staff Hours**

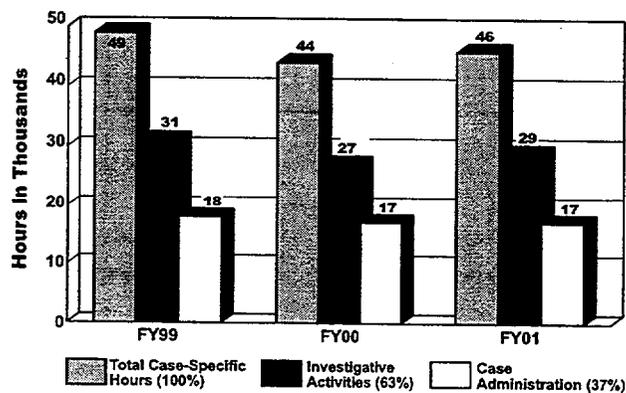


FIGURE 13

In addition to closing 210 cases, OI processed 104 FOIA requests, an 18% increase from FY 2000 (88 to 104). This was the second largest number of requests processed by an office within the NRC in FY 2001.

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# SIGNIFICANT ACTIONS

## ***NRC Enforcement Actions***

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There were 122 escalated enforcement actions<sup>1</sup> taken by the NRC in FY 2001, which included significant Notices of Violation, civil penalties, and orders. OI investigative findings were considered in 55 (or 45%) of these actions. The following are examples of these significant cases:

### ***Temple University Hospital***

An investigation determined that a nuclear medicine technologist was discriminated against by management for having raised concerns to the NRC in 1996/1997 about an alleged falsification of records. On October 19, 2000, the NRC issued a Notice of Violation to Temple University Hospital and proposed imposition of an \$8,800 civil penalty for a Severity Level II violation.

### ***South Pittsburgh Cancer Center***

An investigation determined that the owner/operator of the South Pittsburgh Cancer Center knowingly possessed depleted uranium without an NRC license and subsequently attempted to illegally dispose of it. On August 22, 2001, a Severity Level II Notice of Violation was issued, proposing a civil penalty of \$8,800 against the licensee.

### ***Biomedical Scanning Services***

An investigation determined that a materials licensee owner and Radiation Safety Officer (RSO) deliberately violated a license condition regarding the receipt of nuclear medicine and made false statements to NRC inspectors. On February 21, 2001, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty, in the amount of \$8,800, to the licensee and a Notice of Violation to the owner and RSO.

### ***RMI Titanium Company (Earthline Technologies)***

In an initial investigation, OI substantiated a deliberate discrimination violation by the human resource manager for actions taken against a senior health physics technician. Because of the level of plant management involved, on September 24, 2001, a Notice of Violation and Proposed Imposition of Civil Penalty, in the amount of \$17,600, was issued for a Severity Level II violation. The OI investigation surfaced new technical issues, including some that had specific indications of wrongdoing involving NRC regulations. Additional investigation substantiated that a radiation protection supervisor deliberately failed to take the necessary measures to control NRC-licensed material, specifically uranium, from unauthorized removal from the RMI/Earthline facility in violation of NRC regulations. Further, knowing that the piping contained uranium and was in an unrestricted area and deliberately failing to initiate action to properly secure the licensed material placed the supervisor in violation of the NRC deliberate misconduct rule. A Severity Level III Notice of Violation was issued.

### ***FirstEnergy Nuclear Operating Company***

An investigation determined that a radiation protection supervisor at the Perry Nuclear Power Plant was discriminated against in retaliation for his involvement as a witness in a co-worker's Department of Labor case against the licensee. A Severity Level II Notice of Violation and Proposed Imposition of Civil Penalty, in the amount of \$110,000, was issued to FirstEnergy in May 1999. Ultimately, the violation was reduced to Severity Level III with a civil penalty of \$80,000.

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<sup>1</sup> An escalated action is a Notice of Violation or civil penalty for any Severity Level I, II, or III violation (or problem); a Notice of Violation associated with an inspection finding that the reactor oversight's Significance Determination Process evaluates as having low to moderate, or greater, safety significance (i.e., white, yellow, or red); or any order based upon a violation.

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### **Callaway Plant**

An investigation determined that the licensee and its contract security force management had discriminated against a former employee for identifying violations of the security program and falsification of records. On May 14, 2001, a Severity Level III Notice of Violation and Proposed Imposition of Civil Penalty, in the amount of \$55,000, was issued to the licensee. A Severity Level III Notice of Violation was also issued to the contract security company.

### **Radiographic Operations in Offshore Federal Waters:**

An investigation determined that *Bayou Inspection Services, Inc.*, deliberately conducted radiography in offshore Federal waters without an NRC license. On April 2, 2001, a Severity Level III Notice of Violation and Proposed Imposition of Civil Penalty, in the amount of \$5,500, was issued to the licensee.

An investigation determined that *Gulf Coast Testing International Inspection, Inc.*, deliberately conducted radiographic operations in offshore Federal waters without an NRC license. On March 27, 2001, a Severity Level III Notice of Violation and Proposed Imposition of Civil Penalty, in the amount of \$5,500, was issued to the licensee.

An investigation determined that *Global X-Ray and Testing Corporation* deliberately conducted radiographic operations in offshore Federal waters without an NRC license. On March 8, 2001, a Severity Level III Notice of Violation and Proposed Imposition of Civil Penalty, in the amount of \$5,500, was issued to the licensee.

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### **Interaction with the Department of Justice**

Of the 210 investigations closed in FY 2001, 45 cases were referred to the Department of Justice (DOJ) for prosecutorial review. During FY 2001, OI supported one Federal grand jury. In addition, one OI investigation resulted in a guilty plea in Federal court.

### **Central Michigan Community Hospital**

A nuclear medicine technician (NMT) deliberately made false statements to the NRC regarding a violation of procedures during a lung scan. On October 5, 2000, the NMT signed a plea agreement with DOJ. On November 30, 2000, the NMT pleaded guilty to one felony count of 18 U.S.C. 1001 in U.S. District Court in Grand Rapids, Michigan. On March 1, 2001, the NMT was sentenced to 1-year probation with the first 90 days in home confinement, a fine of \$500, and an order to write letters of apology to the NRC, the Central Michigan Community Hospital, and the patient. On April 2, 2001, the NRC issued an order prohibiting the NMT's involvement in NRC-licensed activities for 5 years. The NRC also issued a Severity Level III Notice of Violation to the Central Michigan Community Hospital.

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# INITIATIVES

- Following the terrorist attacks of September 11, 2001, OI participated in several Department of Justice counter-terrorism task forces to gather and share intelligence, assess the threat status at NRC-licensed facilities, and generally ensure consideration of NRC interests in the major law enforcement and intelligence gathering communities. It is anticipated that during FY 2002, OI will conduct an initiative to visit NRC-licensed nuclear facilities nationwide to interview facility security personnel and local law enforcement/emergency responders in furtherance of the agency's counter-terrorism activities.
- As a result of an initiative commenced in FY 2000, OI, in FY 2001, established a computer connection to the National Crime Information Center (NCIC) network. This gives OI the ability to communicate with other agencies through a secure system and access to numerous law enforcement data bases that will assist in its investigative mission.
- OI continues participating in an agency group that has been tasked with evaluating the NRC's processes for handling allegations of discrimination in violation of Section 211 of the Energy Reorganization Act. In support of the task group, OI has participated in a series of public meetings to solicit external stakeholders' input on ways to improve the current processes, as well as internal stakeholder meetings designed to do the same. Ultimately, the task group will develop a Commission Paper to set forth its findings and make recommendations where appropriate.
- The OI self-assessment program continued in FY 2001 through visits to OI field offices and meetings with senior regional staff. These visits focused on OI performance measures related to general operational and administrative matters, quality of investigations and reports, compliance with policies and procedures, timeliness, and outcomes with regard to effectiveness, efficiency, productivity, and client satisfaction. Each field office was visited by a team composed of senior OI Headquarters personnel and a Field Office Director from another office. The visits determined that the field offices were operating satisfactorily within OI and NRC requirements. Further, senior managers at the regions were well satisfied with the effectiveness, efficiency, and productivity of OI.
- For the past several years, OI has been working with the Office of the Chief Information Officer and its contractors to upgrade the OI Management Information System (OIMIS). This upgrade was completed and initially deployed during FY 1999. All OI users of the system, nationwide, were subsequently trained in its operation. In April 2001, this system was finally deployed and is fully operational. The system has proven successful in enhancing the ability to track, monitor, and manage the investigative case inventory at both the headquarters and individual field office levels. In addition, it has increased the overall accountability and reporting capability, while decreasing administrative requirements.
- The Region IV OI Field Office participated in a program to present the OI mission in relation to discrimination investigations to various licensees' Employee Concerns Programs.

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# **APPENDIX**

## **STATISTICAL SUMMARY REPORT**

**Office of Investigations  
Management Information System  
Status of Cases  
for the Period 10/01/2000 to 09/30/2001**

<b>Cases Open at Start of this Period</b>	100
<b>Cases Opened this Period</b>	198
<b>Cases Closed this Period</b>	210*
Substantiated	44
Unsubstantiated	143
Higher Priority	5
Deferred to Department of Labor	2
Transferred to Other Regions	1
Other	2
Assistance to Staff	13
<b>Total Cases Open at End of this Period</b>	88
<b>Criminal Referrals</b>	45

**\*Source:**

Alleger/Whistleblower/Intervenor - 140  
NRC (Inspector/Technical Staff) - 42  
Licensee/Licensee Employee Concern Program - 22  
OI (Self-Initiated and Developed by OI) - 2  
Other Government Agencies - 4