

TESTIMONY OF JAMES A. F. KELLY  
U.S. NUCLEAR REGULATORY COMMISSION  
BEFORE  
THE SUBCOMMITTEE ON GENERAL OVERSIGHT AND INVESTIGATIONS  
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES  
ON  
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My name is James A. F. Kelly. During the last seven years I have been a Senior Security Inspector for the U.S. Nuclear Regulatory Commission (NRC) in Region IV, Dallas, Texas. I am responsible for coordinating the Security Inspection Program for the NRC licensed nuclear activities within the 13 state region of the United States. The purpose of the Security Inspection Program is to protect against security related incidents that could result in a radiological release thereby threatening public safety. This involves threats from both insiders and external saboteurs. As the senior security inspector, my duties include traveling to and overseeing all the nuclear power reactors within NRC's Region IV.

I have been in the security and law enforcement profession for 30 years. I have a Masters Degree in Criminology and have taught criminology at the university level. I have held a number of managerial positions. As Assistant

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Director for the International Association of Chief of Police, I developed Government, corporate and executive protection programs against terrorists attacks, and established a counter-terrorist information service for law enforcement and security officials. I co-founded the National Bomb Data Center which is currently run by the FBI. I am also a Licensed Polygraph Examiner, the first such to attend a polygraph school as an NRC inspector. I was previously Assistant Chief of Police for Charlotte, North Carolina, and have extensive experience as a police officer and an investigator for the State of Florida. I have authored several books and articles on law enforcement and security officer training and supervision.

Although I did not volunteer to appear before this Subcommittee, I did not object to answering the questions of your staff, nor do I now shrink from the responsibility of describing what I consider to be a significant problem affecting the safety of nuclear power plants in this country.

It relates to the matter of drug and alcohol abuse on the part of a small, but significant, percentage of employees who have access to the power reactors.

The NRC has left to the nuclear industry the responsibility for insuring that personal problems of drug and alcohol abuse do not impact personnel who operate and maintain nuclear power plants, or who otherwise have access to the vital areas of these plants. A few have vigorously and courageously addressed the problem, but for the most part, the utilities are not up to the task.

My observations are that the industry usually does not seek to identify these kinds of problems, often fails to investigate those problems brought to its attention, often fails to report such problems to the NRC, and does not always cooperate with the NRC when the NRC occasionally decides to investigate. The NRC, for its part, has rarely investigated allegations of drug and alcohol problems. My experience reflects that for the most part, the utilities have demonstrated their unwillingness or inability to pursue the allegations.

In my job, I have encountered many examples of drug and alcohol abuse at nuclear power plants. One case in particular provides a comprehensive example of what can go wrong when the industry is left to its own devices. As an NRC inspector, I performed a review of allegations of drug and alcohol related

problems at the Cooper Nuclear Station in Nebraska. For a two month period, 1 surfaced allegations of numerous security violations to include a number of incidents indicating drug or alcohol use at the utility site. These included: evidence of the smoking of marijuana by two security officials in the owner controlled area; a security guard unconscious, drunk or drugged in the Security ready room; a licensed operator reporting to work drunk; the smoking of marijuana inside the protected area of the plant, to include the diesel generator room which contains vital equipment. These allegations may well represent the tip of the iceberg. They were discovered by random inspection over a short time frame. None of these incidents were reported by the utility. There was limited, if any, action taken by the utility to investigate or correct any of the identified problems. Since the NRC has no regulatory standards applicable to alcohol and drug problems, the matters were turned over to the utility for action. The NRC took no regulatory action of any type, even after these incidents were brought to its attention. The NRC might consider simply referring these allegations to the utility to be an effective regulatory action. The results reflect that they were not.



I was at the Cooper site when these incidents were brought to my attention. When I became aware of what had occurred, I notified my Regional Office, seeking investigative help. I was directed to refer all the allegations to the utility, and to turn my investigative leads over to them. As instructed, I turned over all my material to the utility's District Investigator, in fact, its only investigator. This individual was later assigned responsibility for developing the utility's Fitness for Duty Program. Nothing ever came of any investigation of drug and alcohol abuse which might have been carried out. A year and a half after the investigative referral was made, the District Investigator, who was then also manager of their troubled Fitness for Duty Program, was himself arrested for possession of drugs and being under the influence of drugs. He negotiated a plea bargain under which he plead guilty to a lesser charge in a Nebraska criminal court. The utility tried to shield that information from the NRC and when challenged later, the utility spokesman stated that they were having problems with the District Investigator and had removed him from the job prior to his arrest. Thus, they insisted, it was not a matter for the NRC.

We also discovered that prior to my becoming aware of the evidence of drug use, the utility had removed from its files, incident reports of drug use and other security violations. Clearly, those reports would have reflected adversely upon the effectiveness of their security program and should have been reported to NRC. The stated reason for removing these documents from the files was to prevent the NRC from finding the information contained in these reports. That was admitted to NRC investigators by an ex-official of the utility.

In a separate incident, also at Cooper, a temporary utility employee was attempting to direct traffic in a nearby community with a road block, claiming that a radiological accident had occurred at the plant, thus requiring an evacuation. The employee appeared to be severely intoxicated and was apprehended by the county sheriff. After assuring the local sheriff that it was a hoax, plant security picked up the employee.

This employee, who worked alone as an electrician at the plant, had access to vital parts of the plant, including those particularly vulnerable to sabotage.

He was allowed unescorted access to the site for ten days following this incident. When the NRC questioned the plant management staff about this unreported incident, the then plant manager claimed it was not a regulatory matter. At that point the electrician was fired rather than being provided with counseling as would have been appropriate.

I was not informed of this event at the utility. I had to find this out from the local sheriff. In fact, it was never reported to the NRC by the utility. Even after the NRC was aware of the incident, and of the fact that the employee had experienced episodes of this nature every three to six months, the NRC took no conclusive regulatory action. The NRC's rationale was that the alcohol induced event occurred off site.

The Subcommittee staff has asked me whether the Cooper plant now has an adequate Fitness for Duty Program. In an ironic sequel to the course of events that took place at Cooper, the NRC has recently asked its inspectors, up to 50 in number who visit the Cooper site, to voluntarily take Cooper's

drug test. This would result in the industry testing, even regulating, the NRC. I find this difficult to accept.

By no means is the drug and alcohol problem unique to the Cooper Nuclear Plant. The Subcommittee staff has also questioned me regarding Fort St. Vrain. Drug and alcohol problems at this Colorado reactor are of interest, if for no other reason than it is the only commercial plant in the country that uses bomb grade material.

The NRC was confronted with a number of serious security allegations regarding misconduct at the plant, but never pursued them to my knowledge. Let me acknowledge, up front, that the individual who made the initial allegations was an ex-employee who had experienced personal problems at the plant. However, the allegations still deserved investigation. At least some of the allegations were later corroborated. The NRC chose not to perform even an initial investigation, since it has no specific regulations governing the actions alleged. In fact, the NRC directed its security inspectors not to pursue it in any way.



It was alleged that a weighing scale had been stolen and was being used for drug related activities, and that marijuana was being smoked onsite. It was also alleged that security officers were having sex while on duty, making it difficult for them to be attentive to their security responsibilities.

As I indicated earlier, the NRC chose not to investigate any of these allegations. The agency elected to turn all responsibility for pursuing the allegations over to the utility. The utility did little, if anything, to follow up. The individuals to whom the NRC referred the allegations, the plant manager and the Vice President for Nuclear Power, were later indicted and convicted for taking kickbacks. Further, based on my experience and professional judgment, I might reasonably wonder if the plant manager and vice president were taking kickbacks for some material to be used in the plant. What would stop them from taking kickbacks concerning safety related material? To the best of my knowledge, this aspect of management effectiveness was never investigated.

It was also alleged that a Lead Security Officer was unfit for duty due to alcoholism. The Regional office received repeated reports of this drinking problem. Nevertheless, the utility's corporate safety people insisted to the NRC that the Lead Security Officer did not have an alcohol abuse problem. Just a few weeks ago, the man's family came to the utility asking that he be admitted into an alcohol rehabilitation program. It appears that the utility was not going to inform the NRC; however, an NRC security inspector happened on the scene and was filled in by a member of the utility staff who believed, incorrectly, that the NRC already knew.

To my knowledge, this case has not been referred to the NRC's Office of Investigations. I cannot believe that an investigation, as it relates to integrity in nuclear management, is not warranted.

More recently, an operator at Fort St. Vrain, who is responsible for maintaining safety systems, was reported to have been under the influence of drugs. This matter was taken out of the hands of the NRC's Security Personnel and again referred for action to the utility. This is particularly shocking to me

in light of the utility's failure to investigate or to take any other constructive action concerning the earlier allegations. Nor am I aware of any action taken by the utility on the latest set of allegations.

There is another problem in the Fitness for Duty area that is slightly different but no less serious than what I have just described. When a plant is under construction the NRC lacks jurisdiction over security matters regarding those working on the plant. A case in point concerns the South Texas Project, which is currently under construction and located in a deep rural setting between Corpus Christi and Houston. It is located on the route to the Mexican Border. It is a big drug traffic area. There have been numerous reports of serious drug abuse at the construction site. The NRC presently has nothing in its regulations which would permit regulatory action or allow it to address this problem. The major contractor on site recognized the problem and independently initiated aggressive actions; then the utility followed suit with a program of their own.



The problems facing the South Texas project are not isolated examples. It is common to hear reports of drug problems at nuclear power plant construction sites. The NRC should not rely on isolated exemplary actions in addressing the problem of drug and alcohol abuse at construction sites.

The safety concerns prompted by this situation are obvious. The possibility that critical components of a highly vulnerable facility might have been built, maintained or inspected by someone under the influence of drugs or alcohol is unsettling.

Once a plant is operational, it will shut down approximately every 18 months for about four months. This enables outage workers to service and overhaul the plants. Efforts are under way in the industry to allow for a relaxation of security requirements at plants during the outage phase. This proposal would revert the plants back to the same positions of vulnerability to sabotage as during the construction phase, but now with even greater risk due to the presence of irradiated fuel. Reports of drug and alcohol abuse by the outage workers have been relatively common. Under those circumstances, the



public safety may well be in the hands of persons under the influence of drugs and alcohol. One such example occurred at the Cooper Plant when cocaine was offered for sale on site. The NRC referred this matter to the utility to handle. The utility was inexperienced in handling such matters. They exposed the informant, and her life was threatened. She left the site and went into hiding. The NRC did not pursue the matter citing the lack of a regulatory basis.

I do not intend to paint a totally bleak picture. There are a number of utilities that are doing sound conscientious jobs in establishing and implementing Fitness for Duty programs. Also, my management at Region IV has been supportive of my efforts to encourage the utilities to implement such preventive programs voluntarily.

I believe that our Region is in the forefront in these matters. However, for the most part, it is my experience that the NRC's decision to rely on the utilities to police themselves in the area of drug and alcohol abuse has not been effective.

The utilities lack the investigative expertise to deal with the failures of the Fitness for Duty program. My sources within the industry tell me that the utilities simply do not want drug and alcohol problems surfaced publicly. This should not come as a surprise.

Absent clear regulatory standards, the agency has made it difficult for its inspectors to assist utilities in establishing prevention programs, to identify violations, indeed to even define violations of drug and alcohol abuse.

In sum, few if any of the utilities have comprehensive programs to deal effectively with drug and alcohol abuse. For the most part, they are not capable of self-policing, nor do they report problems to the NRC. The NRC typically chooses not to pursue these matters, even referring problems to utilities that have demonstrated their unreliability.