

REGIONAL OPER. AND ENFORCEMENT

FILE # MURPHY 117

OFFICE OF EXECUTIVE LEGAL DIR.
U.S. NUCLEAR REGULATORY COMM.

FILE ALREADY MADE 86 -

~~License~~ INVESTIGATIONS POLICY

MAKE A NEW FILE

Date 6/9

EA 86 -

DP 86 -

MA 86 -

OI 86 -

Enclosed is MATERIAL

ON Attorney's presence during
investigation. Also is a
Typed version of current policy of
OI.

Jim

PREVIOUSLY CONTROLLED

CONTROL

Assign to:

Due date:

FILE AT

COPIES FOR:

✓ Lieberman

✓ SB RH KC WP SC ALL

Reviewer

ROUTE TO:

Cunningham/Murray

SB RH KC WP SC ALL

✓ Regional Counsel (#16)

AFTER ROUTING:

I II III IV V ALL

Olmstead

DESTROY

Ragan

FILE

Christenbury

RETURN TO

Axelrad

COMMENTS:

Information in this record was prepared
in accordance with the Freedom of Information
Act, 5 U.S.C. 552
FOIA 98-108

9810230216 981021
PDR FOIA
TEMPLE98-108 PDR

James Lieberman

211

OI POLICIES ON RIGHTS OF EMPLOYEES UNDER INVESTIGATION

1. OI investigators will continue the practice of normally not advising individuals in non-custodial interviews that they may be represented by counsel. However, individuals being interviewed should not be told that they cannot employ private counsel for consultation and/or attendance at such interviews.
2. Individuals being interviewed will normally be permitted to have a personal attorney or other personal representative present during interviews. However, if the personal attorney or representative also represents another potential interviewee, or the company being investigated, then the investigator will contact headquarters and a case-by-case determination shall be made whether to exclude the personal attorney on conflict of interest grounds. Other third parties, such as licensee management or union stewards, will normally not be permitted to be present during interviews. Requests for other than personal counsel shall be handled on a case-by-case basis after consultation with OGC.
3. The use of stenographic reporters or tape recorders will be at the discretion of the investigator but will not normally be used due to the impediment they may pose to the free flow of information. Requests by an interviewee to have an interview recorded will be dealt with on a case-by-case basis. The investigator may either allow taping or terminate the interview. The NRC normally will make the tape if an interview were to be recorded, and would not provide the interviewee a copy of the tape before the investigation has been completed.



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

Cys: Dircks
Roe
Rehm
Stello
GCunningham
Taylor
Denton
Davis
Minogue
Regions I - V

FILE
OI
BOOK

May 21, 1985

MEMORANDUM FOR: William J. Dircks, Executive Director
for Operations

Ben B. Hayes, Director
Office of Investigations

FROM: Samuel J. Chilk, Secretary

SUBJECT: STAFF REQUIREMENTS -- SECY-85-80 -
INVESTIGATION POLICY ON RIGHTS OF LICENSEE
EMPLOYEES UNDER INVESTIGATION

The Commission has voted 3-2 (with Commissioners Roberts and Bernthal disagreeing) to approve the three policy statements recommended by the Office of Investigations on the rights of licensee employees under investigation. The separate views of Commissioners Roberts and Bernthal are attached. The Commission has further agreed to the following changes to the text of the policy statement:

- a. Modify Policy (1) by adding the following sentence:
"However, individuals being interviewed should not be told that they cannot employ private counsel for consultation and/or attendance at such interviews."
- b. Modify the second sentence in Policy (2) to read
"however, if the personal attorney or representative also represents another potential interviewee, or the company being investigated, then the investigator will contact headquarters and a case-by-case determination shall be made whether to exclude the personal attorney on conflict of interest grounds."
(New material is underscored)

Rec'd Off. EDO
Date... 5-22-85
Time... 1:00

- c. Add after the second sentence in Policy (3) the sentence: "The investigator may either allow taping or terminate the interview." In the last sentence of Policy (3) delete "until" and insert "before".
- d. Add at the end of Policy (2) the following sentence "Requests for other than personal counsel shall be handled on a case-by-case basis after consultation with OGC. (O:) (SECY SUSPENSE: 6/10/85)

Attachments:
As Stated

cc: Chairman Palladino
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
Commissioner Zech
OGC
OPE