

Investigating Environmental Crimes



America's Environmental Crime Fighters





**Office of Criminal
Enforcement, Forensics
& Training
(OCEFT)**

OCEFT's Organization



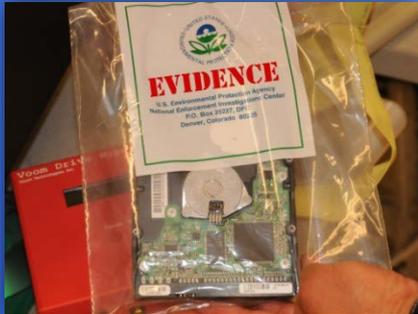


OCEFT **Office of Criminal Enforcement, Forensics and Training**

A team of 350 professionals who work with Federal, state and tribal partners to investigate environmental and related crimes including:

- ◆ **180 special agents in more than 40 offices nation-wide**
- ◆ **85 scientists, engineers, and regulatory experts at the National Enforcement Investigations Center (NEIC), a fully accredited forensics center that supports both civil and criminal cases**
- ◆ **14 attorneys in HQ and 30+ attorneys in EPA Regions with particular expertise in environmental crimes**

Criminal Investigation Division (CID)



Conducts criminal investigations of violations of federal environmental statutes



Refers cases to DOJ and/or state prosecutors and provides full investigative support during prosecution



Plans, develops, and coordinates investigative activities and oversees all operational aspects of criminal investigations:

Includes interviewing witnesses, reviewing documents, serving of federal search warrants, collecting evidence, and testifying in judicial proceedings

Special Agents



Special Agents are Criminal Investigators with full federal law enforcement authority to:

- Conduct investigations
- Carry firearms
- Execute and serve any warrant
- Make arrests for any offense against the United States

Investigative Leads: Where Do They Come From?

- EPA Enforcement Officials and Program Offices
- Concerned Citizens
- Anonymous callers to EPA (hotline or www.epa.gov)
- Former/current employees or business partners
- State/Local Environmental Officials and Regulators
- Other ongoing investigations and analyses
- Investigative Task Forces (Federal, State, Local)



Assembling the Case Team

- Investigators
- Prosecutors
- Regional Criminal Enforcement Counsel (RCEC)
- Scientific/Inspector
- Technical Experts

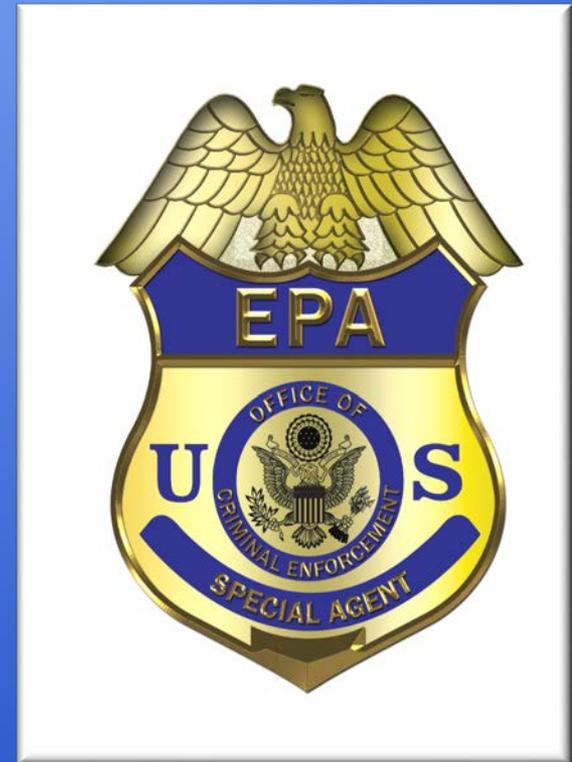
Role of the Criminal Investigator



CASE TEAM:

Criminal Investigators

- Conducting the investigation
 - Witness interviews
 - Subpoenas
 - Search warrants
 - Surveillance
 - Site visits
 - Document review



Role of the Criminal Investigator

- Serve federal search warrants
- Collect and preserve evidence of Criminal Violations
- Make arrest for any offense against the United States



Role of Criminal Investigator

- Testify in Judicial Proceedings
- Grand Jury
- Trial
- Sentencing



Role of the Prosecutor



CASE TEAM: Prosecutors

- Handle legal matters and present evidence in court
- Making charging decisions and drafting charging documents
- Involvement in investigations
 - Advising investigators
 - Assisting with investigation tasks such as subpoenas, search warrants, or other measures that may need judicial approval
 - Participating in witness interviews, site visits, document review

When to Interact with the Prosecutor

- Early and Often
- Reasons:
 - Don't want to waste resources on a case that will not be prosecuted.
 - Don't want to ruin a good case by making an inadvertent legal or evidentiary decision.
 - Prosecutor may have some good advice on evidence that should be obtained early.

CASE TEAM:

Regional Criminal Enforcement Counsel (RCEC)

- Involve in investigations
 - Advising investigators and prosecutors with respect to the application and interpretation of statutes and regulations
 - Assisting in locating experts within the agency
 - Participating in witness interviews, site visits, document review
- May serve as coordinator (or liaison) between other agency components :
 - Response, removal, remediation, and civil enforcement

Role of the Scientific and Technical/Inspectors



Role of the INSPECTOR

- Official representative
- Witness of Fact
- Enforcement case developer
- Provider of enforcement presence
- Technical authority



Role of the Inspector

- The inspectors are key to compliance and enforcement programs
- Without inspectors, there would be no enforcement cases. The inspector collect the information which such cases are based.

Role of the Inspector

- The inspector is the “eyes and ears” of the regulating agency. They have extensive knowledge of the requirements and skill in obtaining information and following up on leads to identify less obvious violations.
- Types of Inspection
 - Compliance Monitoring
 - Air Inspection
 - Hazardous Waste Inspection

Inspection and Technical Support During a Criminal Investigation

- Always seek assistance and information from technical and regulatory staff.
- Sampling and analyses almost always required.
- Only properly trained personnel take samples, but the investigator **MUST** know chain of custody and all proper procedures are followed.



Inspection and Technical Support During a Criminal Investigation

- Criminal Investigator NEVER directs a regulatory inspection.
- Regulatory Inspector NEVER directs a criminal investigation.
- Criminal Investigator is authorized to obtain all information legally obtained in regulatory program.
- Criminal Investigator must take steps to protect confidential information.

Distinctions Between Civil and Criminal Enforcement

Civil Judicial and Administrative

- Strict liability violations
- Burden of Proof: Preponderance of the evidence
- Results:
 - civil penalties
 - injunctive relief
 - SEPs

Criminal

- Knowing/intentional violations
- Burden of Proof: Beyond a reasonable doubt
- Results:
 - incarceration
 - conditions of probation
 - restitution
 - criminal fines
 - community service

Note: If both programs are looking at a subject, neither can direct the other's investigative activities, and stringent grand jury secrecy rules apply.

CASE TEAM: Experts

- Provide expertise and testimony to help prove elements of the offense
- May assist with evidence gathering
 - Ensure evidence is properly obtained, documented, sampled, explained.
- Experts: Government, private sector, academic, regulatory
- Think early about need for experts



- We focus our resources on the most pressing environmental crimes, targeting cases involving:
 - Death or serious injury
 - Hazardous substances and wastes
 - Human exposure or other threats to community health
 - Repeat offenders/multiple violations
 - A large or significant corporate enterprise
- Increasing numbers of more complex cases

Focus on High Quality



We work with EPA's other programs (air, water, waste, civil enforcement, etc.)

- Use their subject matter and legal experts.
- Get leads, referrals, data and expertise.

We investigate cases for Federal, State, and tribal prosecution, by:

- U.S. Attorneys offices
- DOJ's Environmental Crimes Section (ECS), and
- State and Tribal prosecutors.

We work with Federal, State, local and international law enforcement agencies, such as:

- Other "specialized" Federal investigators, such as FDA, NOAA, Fish and Wildlife, Park Service, etc.
- INTERPOL, Canada, Mexico
- FBI, ATF, as well as State, local and tribal police.

We use Environmental Crime Task Forces to organize joint efforts



**Effective
Partnerships**

Task Force

Purpose/Goals

- Team Approach - Share, use, mobilize each others resources
- Mobilize smaller groups for specific cases or projects
- Prevent overlapping, conflicting, redundant investigations and prosecutions



Advantages

■ Pools Resources

- Doing more with less!
- Sharing of experience
- Brainstorming and Institutional Knowledge

■ Multi-Disciplinary Approach

- Sharing of expertise

■ Helps in Achieving Common Goal

- Successful Prosecution
- Credit to all members of Task Force

Enforcing Environmental Laws

- **RCRA** (Resource Conservation and Recovery Act)
 - Hazardous waste treatment, storage and disposal
- **CERCLA** (Comprehensive Environmental Response, Compensation and Liability Act – aka Superfund)
 - Unreported releases of hazardous substances
- **CWA** (Clean Water Act)
 - Surface waters
 - Sewers and POTWs
 - Wetlands
- **SDWA** (Safe Drinking Water Act)
 - Public drinking water systems
 - Underground injection wells
- **CAA** (Clean Air Act)
 - 112r
 - Asbestos
 - Stationary sources
 - Ozone depleting substances
 - RINs
- **EPCRA** (Emergency Planning and Community Right to Know)
 - Notification Requirements
 - Toxics Release Inventory
- **FIFRA** (Federal Insecticide, Fungicide, and Rodenticide Act)
 - Pesticides
- **TSCA** (Toxic Substances Control Act)
 - PCBs
 - Lead-based paint



...and Associated Violations of Title 18, the U.S. Criminal Code

- Obstruction of Justice/Obstruction of Agency Proceeding (§1501 et seq.)
- Conspiracy (§371)
- Mail Fraud (§1341)/Wire Fraud (§1343)
- Aiding and Abetting (§2)
- Smuggling (§545)
- False Statements/Concealment (§1001)
- Money Laundering (§1956)



Strong Results

On average:

- 90% conviction rate
- 75% individual defendants / 25 % corporate
- 75% of cases from CAA, CWA and RCRA violations (with associated Title 18 – U.S. criminal code violations)

Contact Information

Vernesa Jones-Allen
Assistant Special Agent-in-Charge
US EPA CID
290 Broadway, Suite 1551
New York, New York 10007
O: 212 637-3622
C: 917 939-6563
jones-allen.vernesa@epa.gov

