U.S. EPA’s Office of Criminal Enforcement, Forensics and Training
America's Environmental Crime Fighters
Who We Are in OCEFT

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

- 200 special agents in more than 40 offices nation-wide
- About 100 at the National Enforcement Investigations Center (NEIC), a fully accredited forensics laboratory which works on both civil and criminal cases
- 45 attorneys in HQ and EPA Regions with particular expertise in environmental crimes
Where We Are in OCEFT

Headquarters
10 Area Offices
31 RAC Offices
Lab in Denver
NCFL- JAX
Criminal Investigation Division (CID)

Conducts criminal investigations of violations of federal and state 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.
Criminal Investigation Division (CID)

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
NEIC is a highly sophisticated laboratory utilizing a wide variety of analytical techniques to support criminal and civil investigations by:

- Identifying and quantifying pollutants as supporting evidence to show that violations of permit or regulatory limits under the CWA, CAA, or RCRA
- Matching pollutants with sources by using techniques such as morphology, isotope ratios and trace metals comparison
- Conducting applied research to improve existing compliance-related analytical methods
Legal Counsel Division (LCD)

12 Attorneys and 30+ Regional Criminal Enforcement Counsels (RCECs) Provide:

- Legal Case Support: Technical, discovery
- Analyze proposed legislation, rulemaking, policy, guidance, and
- Address Congressional inquiries, FOIAs, ethics, etc.
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.
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

- RINs
- E-Waste
- Illegal environmentally non-compliant importations
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)
  - Asbestos
  - Stationary sources
  - Ozone depleting substances
  - RINs
- **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)
Proof Required re. Mental State

- Most federal environmental crimes have a “knowing” requirement
  - RCRA, CERCLA, CWA, FIFRA, CAA, Ocean Dumping Act

- Gov’t has to prove D had a knowledge of the facts that constitute the offense. Does not require proof of knowledge of the law.
  - RCRA example: don’t have to prove D knew that a particular waste was a listed or identified characteristic hazardous waste
    - Has to be aware of the general hazardous character of the waste

- Knowing Endangerment (CWA, RCRA, CAA):
  - 15 year felony
  - D must knowingly commit the offense and know of the endangerment to others

- Negligence (CWA, CAA):
  - whether the D used reasonable care
  - The care which a reasonably careful person would use under similar circumstances

- Strict Liability:
  - Refuse Act
  - Rivers and Harbors Act

- Responsible Corporate Office Doctrine:
  - When direct or circumstantial evidence proves that they had knowledge of the violation, they were in a position of authority to prevent the violation, and they failed to do so.
Get Leads from EPA offices, other federal, state, local agencies and citizens. Evaluate over 1,500 leads/year.

Open about 20% of leads as criminal cases. Refer other leads for civil, administrative, or state/local prosecution.

750 to 800 open cases at a time. 90% of charged defendants are convicted.

EPA’s Criminal Case “Pipeline”
Investigative Process

Investigative Lead
Target Research
Lead & Case Initiation
Investigative Activities & Techniques
Case Presentation
Federal or State Prosecution Process

Use: Interviews, Records Review, Surveillance, Electronic Surveillance, Monitoring, Search Warrants, Cooperating Witnesses, Sampling, Forensic Analysis
Investigative Leads: Where Do They Come From?

- 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)
- EPA Enforcement Officials and Program Offices
What We Investigate

Over 75% of our cases are in Air, Water and Waste

- CAA: 30%
- CWA: 13%
- RCRA: 7%
- Title 18: 6%
- FIFRA: 1%
- FIFRA: 1%
- Vessel/RHA: 3%
- CERCLA: 2%
- Other: 1%
- TSCA: 1%
- Other: 1%

Over 75% of our cases are in Air, Water and Waste.
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.
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)
<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>New Cases Initiated</th>
<th>Total Defendants Charged</th>
<th>Individuals Charged</th>
<th>Fines and Restitution</th>
<th>Judicially Mandated Projects</th>
<th>Incarceration</th>
</tr>
</thead>
<tbody>
<tr>
<td>09</td>
<td>387</td>
<td>200</td>
<td>147 (74%)</td>
<td>$96 Million</td>
<td>$10 Million</td>
<td>76 Years</td>
</tr>
<tr>
<td>10</td>
<td>346</td>
<td>298</td>
<td>221 (74%)</td>
<td>$41 Million</td>
<td>$18 Million</td>
<td>72 Years</td>
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<tr>
<td>11</td>
<td>371</td>
<td>253</td>
<td>202 (80%)</td>
<td>$34 Million</td>
<td>$2 Million</td>
<td>90 Years</td>
</tr>
<tr>
<td>12</td>
<td>320</td>
<td>231</td>
<td>170 (74%)</td>
<td>$44 Million</td>
<td>$14 Million</td>
<td>79 Years</td>
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Involving the Public Through the Web

EPA’s Enforcement & Compliance Website:  http://epa.gov/enforcement
EPA’s Office of Criminal Enforcement, Forensics and Training  http://www.epa.gov/enforcement/criminal
EPA’s Report an Environmental Violations Website  http://www.epa.gov/tips
EPA’s fugitive website:  http://www.epa.gov/fugitives
EPA CID Offices in California:

• San Francisco Area Office
  Jay Green, Special Agent in Charge
  (415) 947-8713

• Los Angeles Resident Office
  Kristine Wilson, Resident Agent in Charge
  (213) 244-1900
  Kris: (213) 244-1909

• Sacramento Area Office
  Craig Stutheit, Special Agent
  (916) 930-2280

• San Diego Resident Office
  Leslie Gorman, Resident Agent in Charge
  (619) 557-2920