

CRIMINAL AIR INVESTIGATIONS

Presentation to the STAPPA/ALAPCO/EPA
Enforcement & Compliance Workshop

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Air Pollution Enforcement

Complaints about unhealthy levels of air pollution date back to at least 1272, when King Edward I banned the burning of soft, bituminous “sea-coal.” Offenders faced a summary sentence of death.

Nearly 400 years later, the English had not solved their problem, and a noted 17th century London diarist complained: ““What is all this, but that Hellish and dismall Cloud of SEACOALE? So universally mixed with the otherwise wholesome and excellent Aer, that her Inhabitants breathe nothing but an impure and thick Mist accompanied with a fuliginous and filthy vapour...”



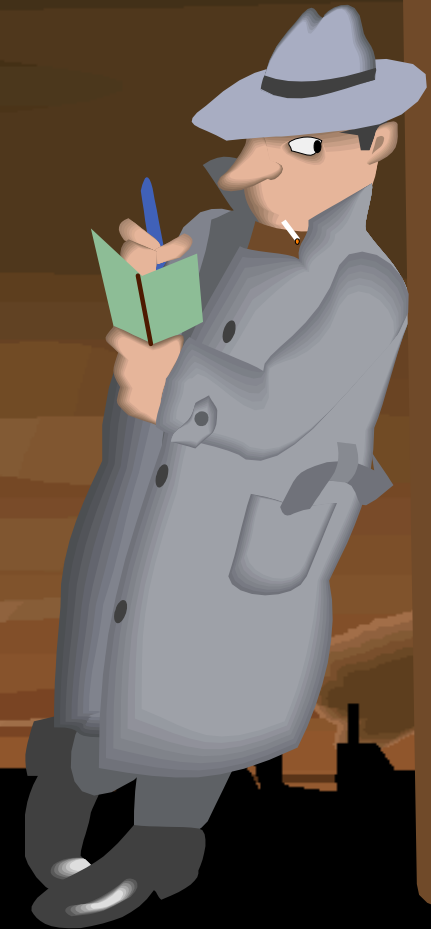
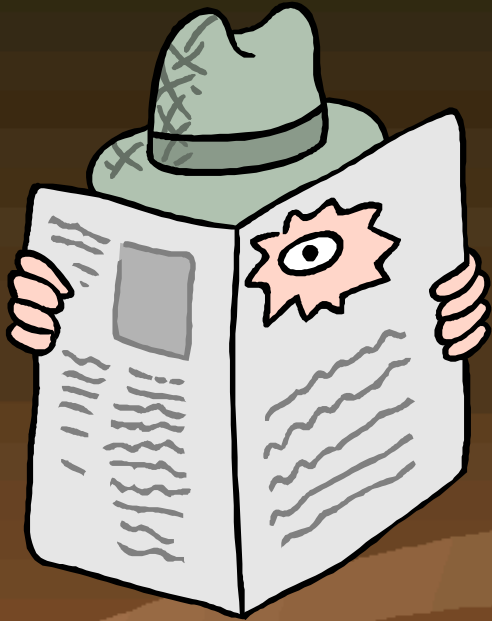
Civil vs. Criminal

What's the difference?

Civil/Administrative: *Primary focus is to protect society by cleaning up the mess, to protect public health and welfare from results of violations.*

Criminal: *Primary focus is on protecting society by punishing and restricting the liberty of individual violators.*

Criminal Investigations



Criminal Investigations

*Observation can change
behavior*



Reputation



Criminal Investigations

Violation or Crime?



Criminal Air Investigations

Reporting and Monitoring Requirements

- **Reporting inconsistencies between different air programs within state agency, or between a state agency and EPA...**
- **Compare CMS data with other environmental reports, witness observations or complaints...**



Criminal Air Investigations

Reporting and Monitoring Requirements

Compare environmental reports with non-related records - Gate logs, employee attendance records, accounting records and work orders for equipment construction or modifications, tank gauging logs, etc.



Criminal Air Investigations

Reporting and Monitoring Requirements

Large facilities frequently have fenceline and internal air monitoring for *safety* reasons. Records from these monitors, which generally have threshold alarms, can provide information on air releases that may not have been reported elsewhere.



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Reporting and Monitoring Requirements

- Facility representations made in business publications can conflict with submitted reports, i.e. production capacities higher than reported to regulators...
- **Historical Reporting:** Were you lying then or are you lying now?



Criminal Air Investigations

SOURCES!
SOURCES!
SOURCES!

Production vs. Environmental



Title 18

18 United States Code 1513

Sec. 1513. - Retaliating against a witness, victim, or an informant

(e) Whoever **knowingly**, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person for providing to a **law enforcement officer** any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.

(e) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

Questions?





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