

# Environmental Protection Agency Handling of Criminal Discovery: U.S. EPA Office of Inspector General Notification of Evaluation



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The United States Environmental Protection Agency (“EPA”) Office of Inspector General (“OIG”) issued an August 15th Notification of Evaluation (“NOE”) whose subject is titled:

*The EPA’s Handling of Criminal Discovery*

See Project No. OSRE-FY22-0145.

The NOE is transmitted from Patrick Gilbride, Director of OIG’s Office of Special Review and Evaluation to EPA’s Acting Assistant Administrator for the Office of Enforcement and Compliance Assurance, Lawrence Starfield.

The various federal environmental statutes include criminal enforcement authorities and penalties. EPA’s criminal enforcement program was established in 1982. It was granted full law enforcement authority by the United States Congress in 1988.

EPA enforces these federal statutory provisions by investigation of cases, collecting evidence, conducting forensic analyses, and providing legal guidance to assist with prosecutions by the United States Department of Justice. The Criminal Investigation Decision (“CID”) is the law enforcement within the agency.

CID’s special agents are sworn law enforcement officers authorized to carry weapons and make arrests for federal offenses involving environmental or other federal laws. Examples of the areas that CID would investigate might include illegal discharges to waters of the United States, illegal emissions into the air, illegal disposal of hazardous waste, and associated general crimes such as false statement, fraud, and conspiracy.

OIG states in its August 15th NOE that its objective is to:

. . . determine whether the EPA’s collection, retention, and production of mandatory criminal discovery material adhered to requirements.

OIG states that it plans to conduct work with staff and managers in EPA’s Office of Enforcement and Compliance’s Office of Criminal Enforcement, Forensics, and Training.

Anticipated benefits of the NOE cited by OIG include:

. . . identifying and correcting procedural problems that may increase risks to the Agency, and its personnel, that result from violating rights of discovery in criminal cases.

EPA is asked to provide the following information to OIG:

- A list of all closed EPA criminal cases since 2016 that were referred to and accepted for prosecution by the U.S. Department of Justice
- EPA policies and procedures relevant to the collection, retention, and production of criminal discovery, including those relevant to interviews, evidence handling, and investigative reports.

A copy of the NOE can be downloaded [here](#).