

Brief Summary of How Other States Handle Environmental Crimes Prosecution (25 states responded to my query – Gordon Durnil)

ALABAMA - Both the Attorney General and local prosecutors have authority to initiate environmental crime prosecutions.

ALASKA – Environmental crimes are prosecuted by a deputy attorney general assigned to the Alaska Department of Environmental Conservation. The DAG has three investigators assigned to her in DEC as an environmental crimes unit. The unit acts on referrals from the DEC or from individual citizens.

ARIZONA - In Arizona, the AG can prosecute environmental crimes. So can the 13 county attorneys. Who takes the lead depends on how the case came to light and, to some extent, the seriousness of the crime. Until 2003, the AG had an environmental crimes unit w/3 attorneys and 3 investigators. The investigators had special expertise and training in environmental crimes. Budget cuts resulted in closing that unit.

ARKANSAS - all criminal law (including environmental) is prosecuted by local elected county prosecutors. The AG pushed legislation to get authority a few years ago, but the legislation was defeated.

CALIFORNIA - In California, each of the 58 counties has an elected District Attorney. All criminal cases are initiated through referrals to the local DA and under the discretion of that official. Of course, there are cases that a local DA will refer to the AG's Office to prosecute, because of conflict or other concerns. There is a team of Deputy AGs that handle these referred criminal cases for prosecution and trial. The AG will also occasionally prosecute cases that are not brought by the local prosecutor.

COLORADO – The AG does have original jurisdiction to prosecute environmental crimes, by media as follows:

Water - concurrent jurisdiction of the DAs (local prosecutor) and AG

Air - Concurrent jurisdiction of the DAs and AG

Hazardous waste - AG jurisdiction, but requires referral from the Health Department

Hazardous materials - DA jurisdiction only

Solid Waste - concurrent jurisdiction

CONNECTICUT - the Attorney General does not have criminal jurisdiction. The state has separate State's Attorney's Office with criminal jurisdiction to prosecute all crimes – environmental or otherwise.

FLORIDA – Environmental crimes are prosecuted by the local prosecutors with assistance from Dept of Environmental Protection. AG has no authority.

GEORGIA - criminal prosecution for violating environmental laws is generally handled by the local district attorneys. The AG has authority, but seldom exercises it.

ILLINOIS - both the AG and State Attorneys (local prosecutors) can bring both civil and criminal environmental cases. Sometimes both the AGO and SAO work together

IOWA - local prosecutors and the attorney general have concurrent authority to prosecute environmental crimes, but the AG usually takes the lead.

KENTUCKY - an environmental crime would either be handled at the local level by the Commonwealth Attorney or by the OAG's Special Prosecution Branch. It depends on the level of specificity of the case as well as any possible local conflicts.

MARYLAND – AG and local prosecutors had concurrent jurisdiction, but hazardous waste related crimes can only be prosecuted by the AG. The AG can bring environmental crimes actions without referral from the state environmental agency.

MASSACHUSETTS - AG and the local District Attorneys both have jurisdiction to bring criminal environmental prosecutions. The Massachusetts AG's office has an Environmental Crimes Strike Force division in our Criminal Bureau which is dedicated to investigating and prosecuting environmental crimes. Almost all environmental crimes are prosecuted by the AG.

NEW JERSEY – The Attorney General has statewide criminal jurisdiction for all crimes occurring within the State, including environmental crimes. Within the Division of Criminal Justice, there are specialized Bureaus, such as Environmental Crime, Organized Crime, Major Fraud and Corruption that handle investigations of statewide importance. For Environmental Crimes, all larger cases are handled by the AG, even in the few counties in which the local County Prosecutor does environmental crime prosecutions,

NEW MEXICO - the local district attorneys have primary jurisdiction to prosecute all crimes including environmental crimes. The Attorney General has secondary jurisdiction and can only handle a criminal prosecution if the D.A. declines prosecution or has a conflict.

NEW YORK – Local prosecutors have jurisdiction to prosecute environmental crimes, but the AG acquires jurisdiction when the head of the New York State Department of Environmental Conservation ("DEC") refers the matter to the AG for prosecution. When that occurs, the DA and the AG have equal, concurrent authority to prosecute. Most environmental crime actions are prosecuted by the AG.

OHIO - The AG does not have original jurisdiction but can prosecute if it is referred to the AG by the Director of Ohio EPA. The County Prosecutors have jurisdiction of any crime occurring in their jurisdiction.

OKLAHOMA – specific statutes give AG the authority to prosecute environmental crimes. In instances where that authority is lacking, we can either work with a D.A. or they can request our assistance from the Governor. Many of our cases are taken federally with a US Attorney.

PENNSYLVANIA - the Attorney General does not have original jurisdiction to prosecute environmental crimes. Such crimes are prosecuted by local prosecutors. The AG can prosecute environmental crimes if it receives criminal referrals from the PA Dept. of Environmental Protection or from a county district attorney.

TENNESSEE – Prosecutions are typically at the county level. The AG has very limited original authority to prosecute environmental crimes. That authority is limited to certain types of Water Act violations.

TEXAS - the Texas AG has no criminal environmental jurisdiction, although the AGO does occasionally assist local prosecutors.

VIRGINIA – All crimes (including environmental) are prosecuted by local prosecutors (Commonwealth Attorneys), but the AG can institute environmental crime prosecution with the concurrence of the local attorney for the Commonwealth.” They define “concurrence” as “consent” and consent has never been refused.

WASHINGTON - Fish and Wildlife crimes in Washington state are prosecuted by the County Prosecuting Attorney. Fish and Wildlife Officers are general authority peace officers and they will either cite the individual or refer the case to the County for charges to be filed. The Office of the Attorney General may step in and prosecute the crime if the County Prosecuting Attorney declines to prosecute.

WISCONSIN - The AG has original jurisdiction to prosecute all environmental crimes. The AG can request a district attorney to prosecute them and they are required to follow through. However, such a request virtually never happens.