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OVERVIEW OF ENVIRONMENTAL criminal investigations

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Objectives for our discussion

- Criminal Investigation Division (CID) organizational awareness.
- Legal summary.
- Differences between criminal v. civil.
- How & why environmental criminal investigations are initiated and conducted.
- Case Examples



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The Leggett Administration

LDEQ-CID

- 6 Regional Offices.
 - Investigators will be assigned to answer Regional questions.
- Answer directly through chain to Secretary.
- Criminal program is designed to address civil program issues and support the field.
- Most egregious offenders will be highlighted in order to achieve deterrence.



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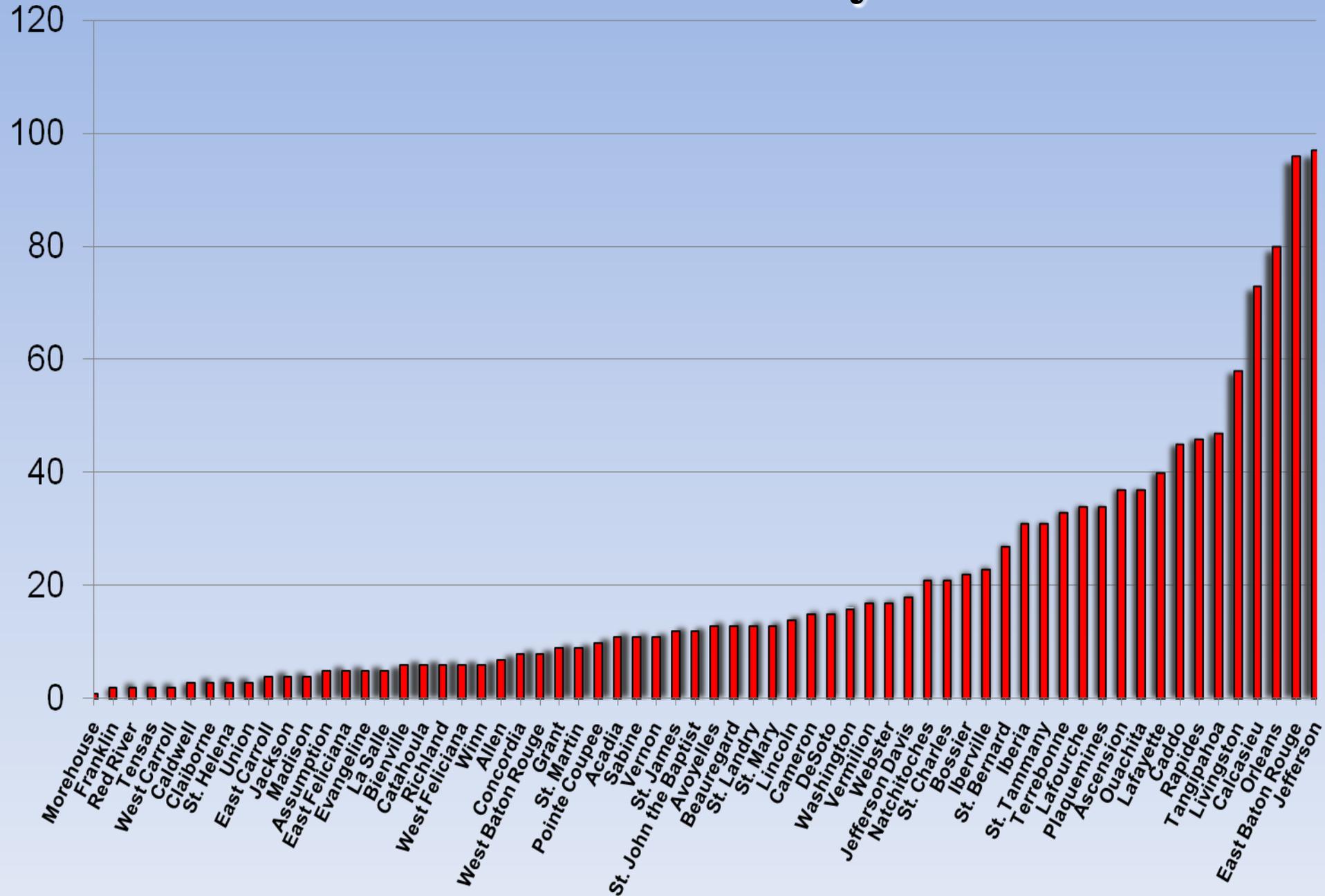


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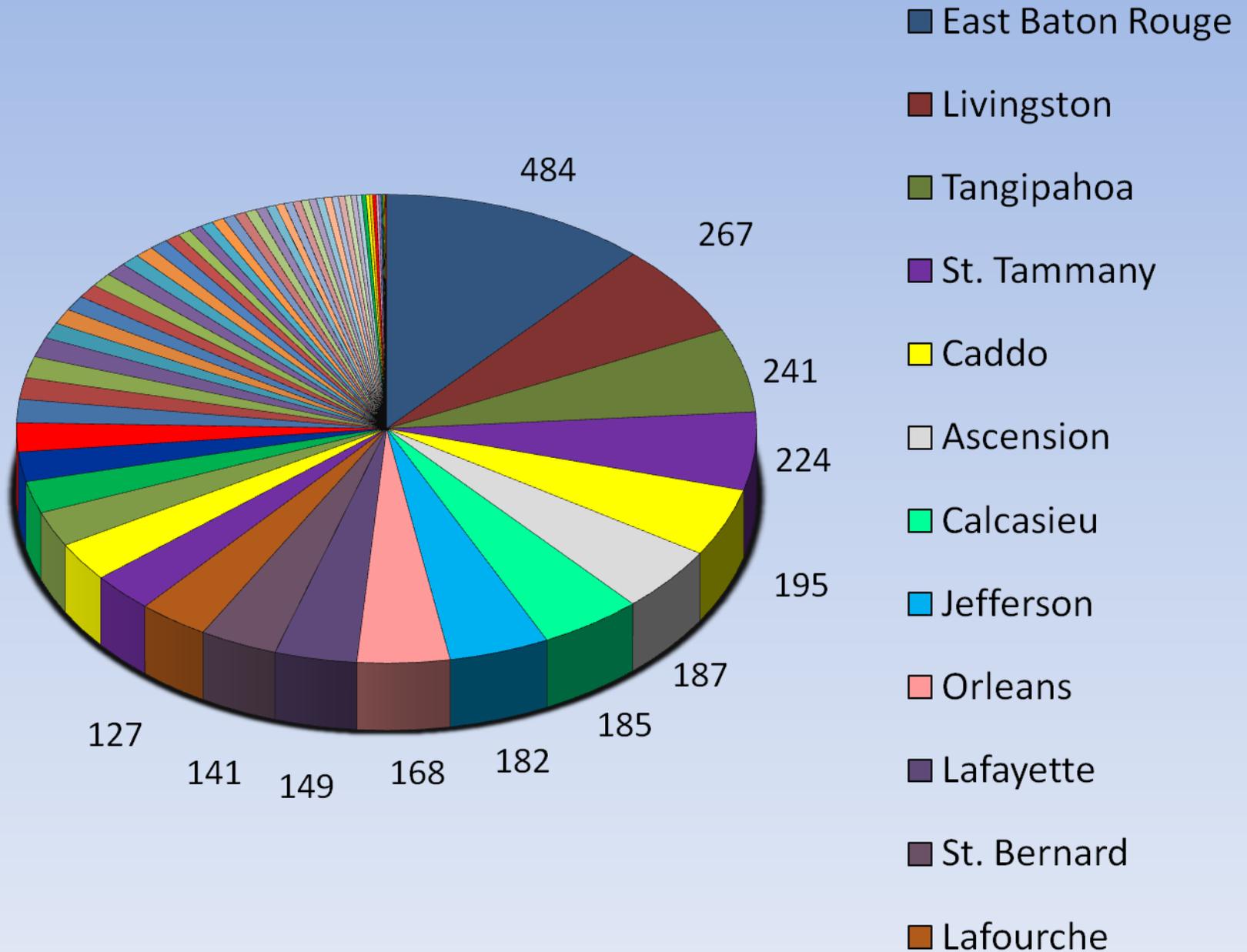
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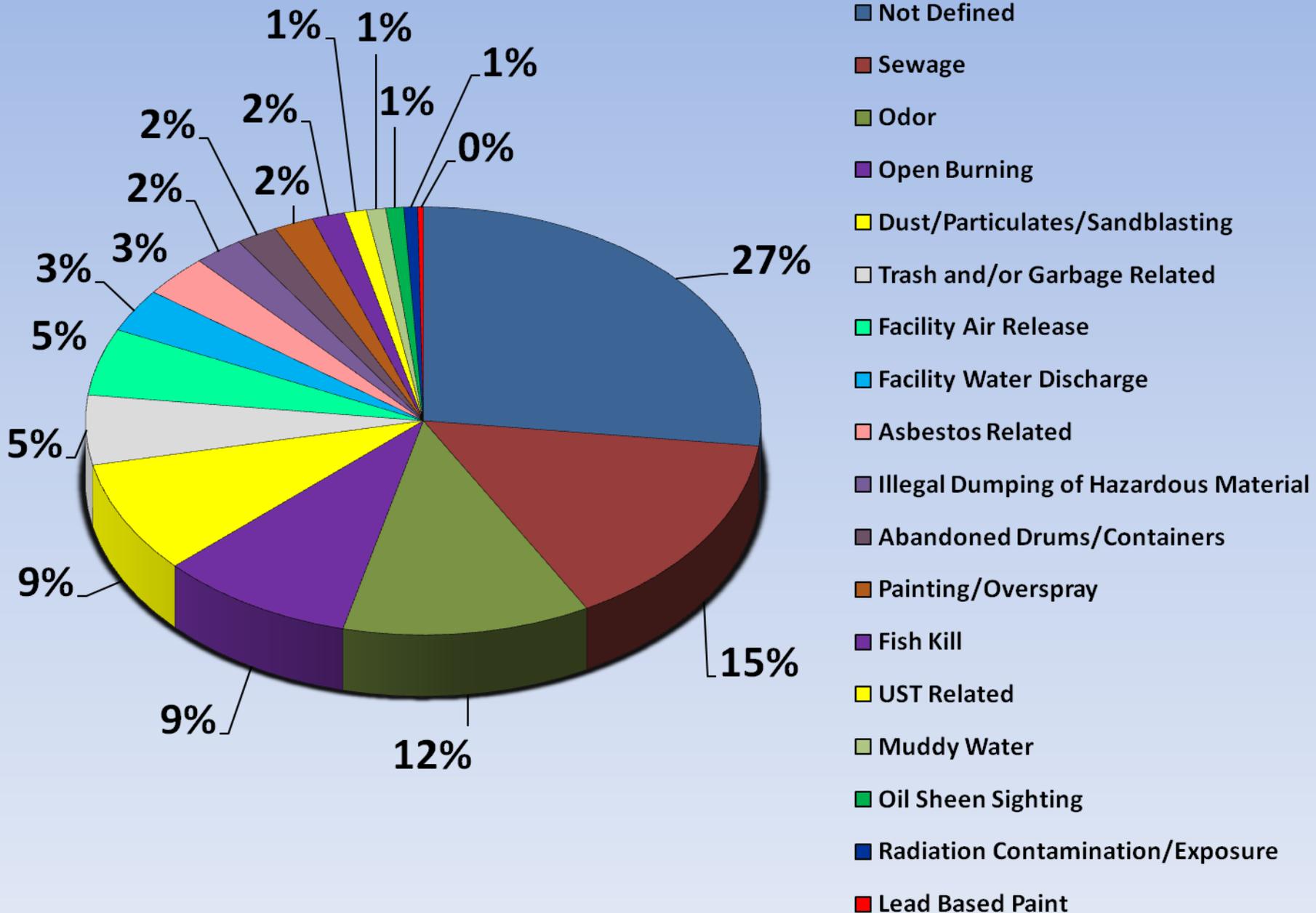
Civil Enforcement Actions by Parish in 2008



Complaints by Parish in 2008



Complaints by Type in 2008



A Bad Day for the Environmental Manager

1. Does everyone know why the environmental manager is referred to as the corporate DF?
2. The internal conflict between production and environmental.
3. Smart executives should structure corporate management to assure environmental considerations are part of production decisions.
 - straw man or actual authority?



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How does
LDEQ-CID identify
conduct by
companies and
individuals worthy
of criminal
investigation?



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Significant Environmental Harm

Actual Harm by an illegal discharge, release or emission that has identifiable and significant harmful impact on human health or the environment.

Threat of Significant Harm to the environment or human health by an actual or threatened discharge, release or emission

near any property that is residence, business, any public playground, church, public library, school, any well or water intake

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Significant Environmental Harm

Failure to Report an actual discharge, release or emission.

Violation represents a trend in industry. Criminal investigation may provide a significant deterrent effect



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Culpable Conduct

- **History of Repeated Violations** when civil enforcement has failed to bring a violator into compliance
- **Deliberate misconduct resulting in violation**
- **Concealment of misconduct or falsification of records.**



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Culpable Conduct

- **Tampering with monitoring or control equipment** so that false data appears to be accurate
- **Business operating without a permit or required documentation.** LDEQ's jurisdiction focuses on dangerous and strictly regulated business operations and persons should not be allowed to operate outside these regulations



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Legal Summary



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Criminal vs Civil Enforcement



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Bill of Rights Protections



Civil	Criminal
<ul style="list-style-type: none">-Unannounced inspections-Warrantless inspections-Hearsay can be admissible-Ability to collect records	<ul style="list-style-type: none">-Double Jeopardy-No Self incrimination-Privacy-Unreasonable search-Unreasonable seizure-Right to an attorney-Right to speedy trial



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Burden of Proof



Civil	Criminal
That a preponderance of evidence supports the claim	That the person is guilty beyond a reasonable doubt



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Who are the Parties Involved?



Civil	Criminal
LDEQ Vs. company or person	The State (via the district attorney) Vs. Company or person



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What is the Nature of the Case?



Civil	Criminal
<p>Administrative Law Judge must determine whether the Respondent has caused harm to the environment or unintentionally violated some regulation or statute.</p>	<p>Judge or Jury must determine whether the individual or company has willfully or knowingly violated a statute that prohibits some type of activity.</p>



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Punishment



Civil	Criminal
<p>Up to \$32,500 for each day of violation</p> <p>the cost to the state of any response action made necessary by such violation</p>	<p>FELONY</p> <p>when the substance is one that endangers or that could endanger human life or health, fined \$1,000,000 or the cost of any cleanup and in addition \$100,000 per violation, and costs of prosecution, or imprisoned at hard labor for not more than ten years.</p> <p>MISDEMEANOR</p> <p>\$25,000 per violation, and costs of prosecution, or imprisoned for not more than one year</p>



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Criminal Investigative Process

- Inspectors, Victims & Disgruntled employee.
- Information resources on corporation.
- The processes at the facility.
- Regulatory interpretation.
- Multi-agency, multi-discipline cooperation.
- Investigative discretion.
- Working with the Prosecutor.
- HEALTH & SAFETY CONCERNS.



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Case Examples



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Robert Case, et al.

- Demolition Project
- Canisters found
- Indifference to danger posed
- Illegal storage
- Death



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Tire Burning

- Bryan Hawkins
- Scrap Metal Business in Ethel, LA
- Burning tires away from rims
- \$500 fine
- 24 months probation



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Illegal Dumping

- The Prop Stop
- Bar in Livingston Parish, LA
- Disposing of Trash Illegally
- \$200 fine



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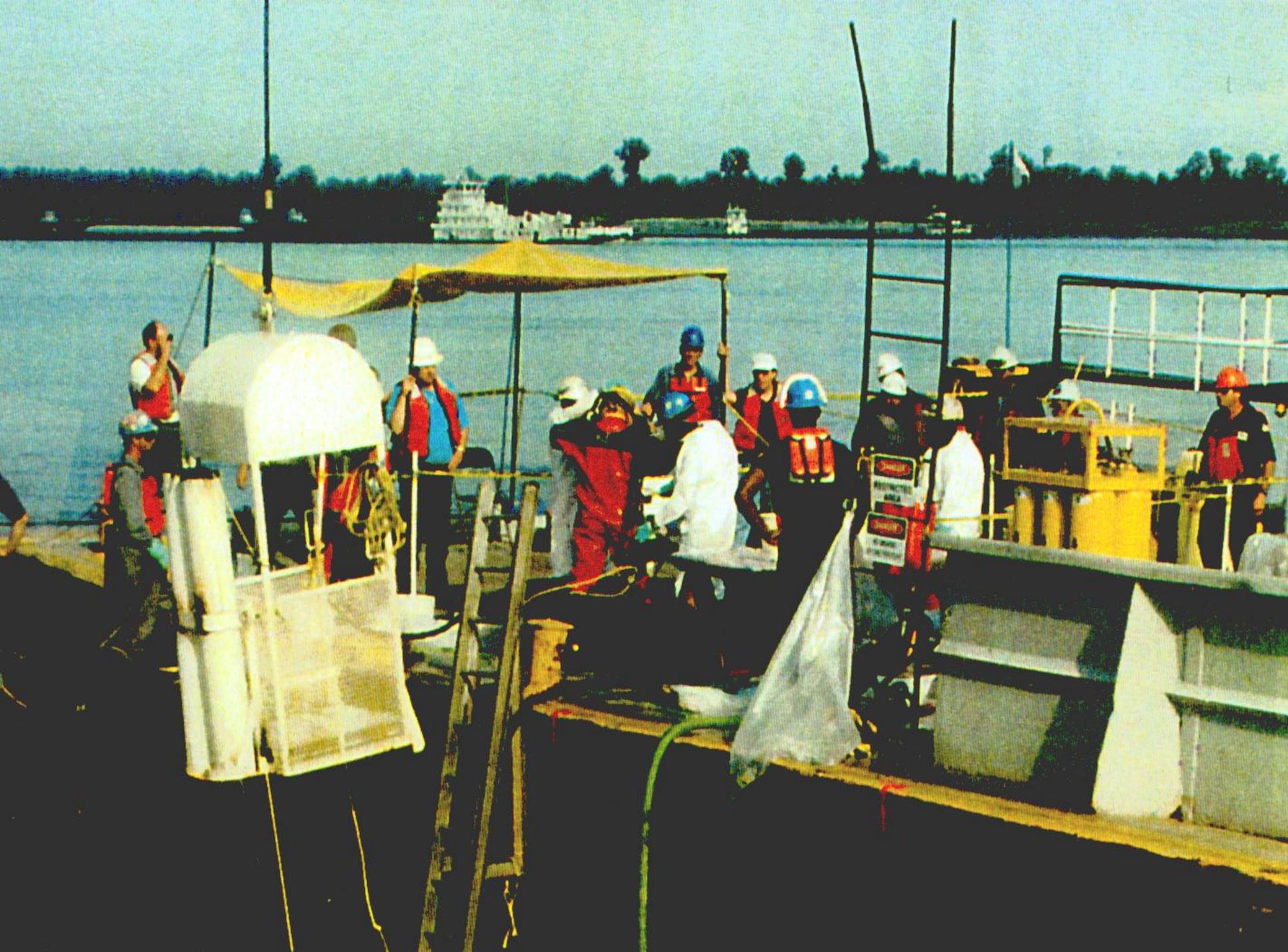
Hall Buck Marine

- Mississippi River.
 - “Big Drip Pan.”
- Historical barge cleaning operations at this site.
- Disgruntled employee.
- Search warrant.
- Diving in the river.
- Denials then... drums and drums and drums



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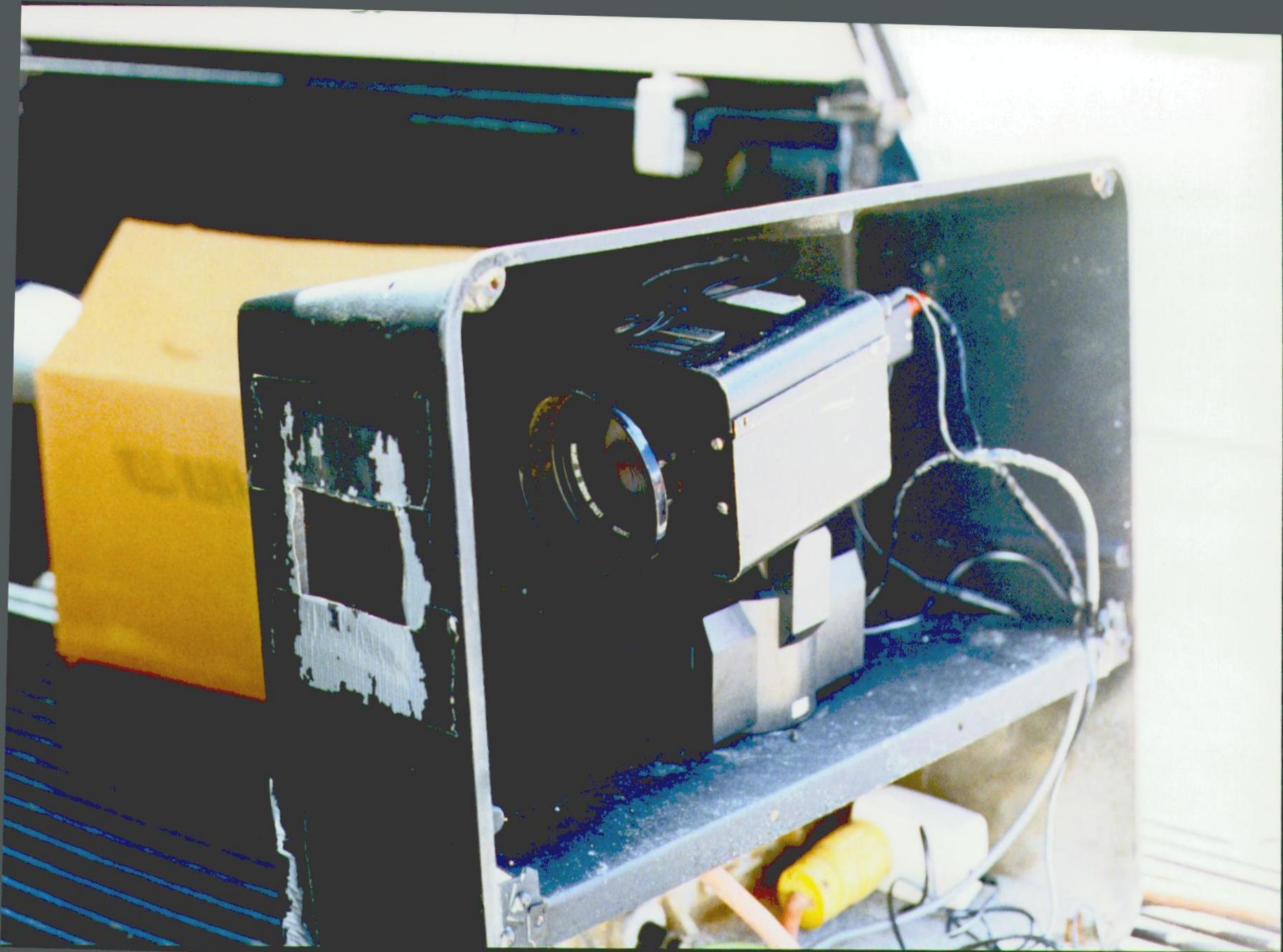
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Photograph 1
Tiger Shipyard, Inc. Facility
Port Allen, Louisiana









Crimes and Misdemeanors

- Lyin' cheatin' stealin'
- Knowingly doesn't ordinarily require "regulatory knowledge."
- Money being made through these criminal endeavors.



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IN THE NEWS

[Bossier City Man Sentenced for Illegal Disposal of Solid Waste \(July 16, 2009\)](#)

[Ethel Man Sentenced to 24 Months Probation for Illegally Burning Tires \(July 8, 2009\)](#)

[Kenner Company and Owner to pay \\$39,000 for Environmental Crimes \(June 30,2009\)](#)

[Ouachita Wastewater Company and Owner Sentenced \(June 23, 2009\)](#)

[Texas Man Pleads Guilty to Illegal Discharge of a Pollutant \(June 9, 2009\)](#)

[DEQ and its Partners Arrest Water System Operator from West Monroe \(June 4, 2009\)](#)

[DEQ Arrests Vacherie Plant Manager for Environmental Violations \(June 3, 2009\)](#)

[DEQ-CID Arrests Man for Illegal Dumping of Solid Waste \(May 29, 2009\)](#)

[DEQ-CID Arrests Vacherie Businessman for Environmental Violations \(May 28, 2009\)](#)

[DEQ-CID Arrests New Orleans Area Demolition Contractor \(April 30, 2009\)](#)

[Natchitoches Man Arrested \(April 8, 2009\)](#)

[Guilty plea entered in illegal disposal case in Ventress \(January 15, 2009\)](#)

Resources

- **Criminal Investigations Website**

–DEQ Homepage → Criminal Investigations Button on the Right:

<http://www.deq.louisiana.gov/portal/tabid/2336/Default.aspx>



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- If you see or suspect illegal activity, please call LDEQ-SPOC at Toll Free 1-888-763-5424 or 225-219-3640 or call LDEQ – CID directly at 225-219-3944.
- www.deq.louisiana.gov
- Jeff Nolan
(225)219-3939 or jeffrey.nolan@la.gov
- Mike Daniels
(225) 219-0301 or mike.daniels@la.gov
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DEQ in 2009

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