

2003 REPORT

ENVIRONMENTAL CRIMES BUREAU

For two decades, the Environmental Crimes Bureau (ECB) has investigated and prosecuted violations of the State's water pollution, air pollution, hazardous waste and solid waste laws, as well as traditional crimes that have an impact on public health and safety and the environment. During 2003, in addition to responding to pollution incidents statewide, the ECB, working closely with the Department of Environmental Protection (DEP) and local officials, focused its efforts on identifying and prosecuting those who illegally dispose of hazardous or solid waste in vulnerable urban areas, or who endanger surrounding communities and workers by the way they operate.

In 2003, the ECB obtained twenty (20) indictments and accusations. Successful ECB prosecutions in 2003 secured nine (9) years jail time and approximately \$342,000 in fines and restitution. The ECB also coordinates the criminal enforcement efforts of the County Prosecutors and the DEP and the Marine Bureau of the State Police, and provides technical and legal assistance to the Prosecutors' Offices, as well as to local law enforcement. During 2003, the County Prosecutors' Offices obtained eight (8) indictments and accusations for crimes related to the environment and/or public health.

I. Urban Initiative

1. In **State v. Iannuzzio** (Indictment No. 03-07-00143-S), the State Grand Jury returned a one count indictment against Anthony Iannuzzio for third degree criminal mischief, contrary to N.J.S.A. 2C:17-3. The indictment charges defendant with disposing of large quantities of solid waste and debris at a privately owned lot in Trenton. Defendant pled guilty to this charge and also pled guilty to an indictment the State had obtained against him in 2002 charging him with fourth degree criminal contempt, contrary to N.J.S.A. 2C:29-9, for violating

DEP orders barring him from handling solid waste. The Court sentenced him to five years State prison for criminal mischief and a concurrent 18 months for criminal contempt.

2. In **State v. James McCann** (Indictment No. 01-08-00061-S), defendant pled guilty to second degree unlawfully discharging toxic pollutants into the Camden sewer system, contrary to N.J.S.A. 2C:17-2, and fourth degree creating the risk of widespread injury, contrary to N.J.S.A. 2C:17-2, by haphazardly storing chemicals in a manner that endangered a Camden neighborhood. The Court sentenced defendant to an aggregate 3 year probationary sentence conditioned upon serving ninety days in the county jail.

3. In **State v. Robert Layman** (Accusation No. 03-01-0073), the State filed a one count accusation against Layman charging him with third degree criminal mischief, contrary to N.J.S.A. 2C:17-3, for abandoning a trailer containing waste chemicals and debris on a lot in Newark. Defendant pled guilty to the charge and the court sentenced him to five years probation and to pay approximately \$62,000 restitution to the DEP and Newark for the cost of cleaning up and removing hazardous materials he had abandoned in a truck in Newark.

4. In **State v. Bailey and Hargrove** (Indictment No. 03-12-00207-S), the State Grand Jury returned an indictment against Bailey charging him with three counts of fourth degree criminal mischief, contrary to N.J.S.A. 2C:17-3, and three counts of third degree theft, contrary to N.J.S.A. 2C:20-7. Co-defendant Hargrove is charged with one count of each crime. During the Summer of 2003, Bailey is charged with stealing two different trailers, filling them with hundreds of used tires, and with trying to dump them at two sites in the Hackensack Meadowlands and at one site in Far Hills.

5. In **State v. Jose Marte** (Accusation No. A-687-03), the State filed an Accusation against the defendant charging him with fourth degree criminal mischief, contrary to N.J.S.A. 2C:17-3. Defendant pled guilty to the charge and the Court sentenced defendant, the owner

of a Jersey City salvage yard, to five years probation and to pay \$50,000 restitution for cleanup costs for causing automotive fluids from vehicles at his salvage yard to drain onto and contaminate property owned by CONRAIL.

6. In **State v. Mohammed Munir and Champion Cleaners** (Indictment No. SGJ472-03-3/03-02-0032-S), the State Grand Jury returned a two count indictment against defendants charging them with third degree reckless unlawful abandonment of hazardous waste and toxic pollutants, contrary to N.J.S.A. 2C:17-2a(2), and fourth degree recklessly causing a disposal of hazardous waste at an unauthorized place, contrary to N.J.S.A. 13:1E-9h(2). The defendant, the owner of Champion Cleaners in Paterson, is charged with causing the abandonment of drums and containers of hazardous waste perchloroethylene at a curbside in a mixed commercial/residential neighborhood in Paterson.

7. In **State v. Walter Townsend** (Indictment No. 01-1887), defendant pled guilty to fourth degree criminal mischief, contrary to N.J.S.A. 2C:17-3, for dumping debris at the end of a residential street in Trenton. The Court sentenced defendant to an 18 month State prison sentence. This sentence is concurrent to the sentence defendant received for a murder conviction.

8. In **State v. Heriberto Hernandez** (Indictment No. 03-09-00175-S), the State Grand Jury charged defendant with two counts of third degree receiving stolen property, contrary to N.J.S.A. 2C:20-7, and two counts of third degree criminal mischief, contrary to N.J.S.A. 2C:17-3. Defendant is charged with stealing trailers from ASA Trucking at Port Newark and filling them with debris in Newark.

9. In **State v. Wilfredo Archilla** (Accusation No. 529-03), the State filed an Accusation against defendant charging him with third degree recklessly causing the abandonment of toxic pollutants (N.J.S.A. 2C:17-2a(2)) for abandoning a trailer containing

drums with waste oil at a truck yard in Jersey City. Defendant, who paid for the removal and disposal of the contents of the drums, will, as a condition of Pretrial Intervention, have to pay a \$3,500 fine.

II. Air Pollution

1. In **State v. John DeCarr, aka John Mandola** (Accusation No. 828-02), the Court sentenced defendant to five years probation conditioned upon serving a one year county jail sentence for a fourth degree violation of the Air Pollution Control Act, contrary to N.J.S.A. 26:2C-19, and to fourth degree resisting arrest, contrary to N.J.S.A. 2C:29-2. While conducting another investigation in Jersey City, ECB SIs observed the defendant salvaging wire by using open fires that created black smoke near a residential housing development.

III. Environmental Frauds/Thefts

1. In **U.S.A. Sanitation, Inc.** (Accusation No. 03-12-1363-A) and **State v. Caravella** (Accusation No. 03-12-1362-A), the State filed Accusations against and obtained guilty pleas from both defendants for the following crimes: 1) theft by deception, third degree, contrary to N.J.S.A. 2C:20-4; and 2) forgery, fourth degree, contrary to N.J.S.A. 2C:21-1. U.S.A. Sanitation, a solid waste collection company, and its president, John Caravella, are charged with altering Morris County Utility Authority waste receipts in order to overcharge customers for solid waste disposal services.

2. In **State v. Scilla** (Indictment No. 02-09-00146-S), the Court sentenced defendant to a probationary term for theft (N.J.S.A. 2C:20-4) for altering weigh ticket information for solid waste customers of his company to overcharge them for solid waste collection service. The company has fully repaid the victim companies the overcharges, which amounted to approximately \$75,000.

3. In **State v. Reisman (Biometric Access)**(Indictment No. 03-00144-S), the

State returned a two count indictment against defendant for second degree theft by deception, contrary to N.J.S.A. 2C:20-4, and second degree securities fraud, contrary to N.J.S.A. 49:3-52. In this spinoff investigation from the ECB's **Meadowlands Plating/O'Brien** prosecution, the defendant is charged with arranging for the purchase of over \$200,000 of shares of stock at a much higher price per share than he had stated to the purchasers.

4. In **State v. Mitchell Reisman, et al. (Image Axis)** (Indictment No. 03-01-0005-S), the State Grand Jury charged five defendants with second degree theft, contrary to N.J.S.A. 2C:20-9, for misappropriating a \$967,000 U.S. Small Business Administration guaranteed loan for the purchase of machinery and equipment. This case is a spinoff from the ECB's **Meadowlands Plating/O'Brien** prosecution.

IV. Hazardous Waste/Solid Waste

1. In **State v. Evsco Pharmaceutical and Vineland Laboratories** (Accusation Nos. 03-05-00676-A and 03-05-00677-A), the defendant companies pled guilty to fourth degree unlawful storage of hazardous waste, contrary to N.J.S.A. 13:1E-9h(3), for unlawfully storing containers of hazardous waste in box trailers at a truck yard in Atlantic County. The Court sentenced each defendant to pay a \$20,000 fine.

2. In **State v. John Upperman** (Indictment No. 02-09-0145-S), the Court sentenced defendant to four years probation and to pay a \$7,000 fine and \$5,896 restitution for the cleanup cost. Defendant was charged with abandoning a trailer containing drums of PCB contaminated waste on a commercial property in Gloucester County.

V. Protection of Waters/Natural Resources

1. In **State v. Donald Kelly, Inc., John Kocis & Shawn Kelly** (Accusation Nos. 1730, 1731 and 1732-05-03), defendant John Kocis pled guilty to third degree water pollution, contrary to N.J.S.A. 58:10A-10f. Defendants, Donald Kelly, Inc. and Shawn Kelly, pled guilty

to two third degree water pollution charges. The Court sentenced defendant John Kocis to one year probation conditioned upon serving 364 days in Camden County jail. The Court sentenced Shawn Kelly to a three year probationary term and a \$75,000 fine for two counts of third degree water pollution. The Court sentenced Donald B. Kelly, Inc. to pay a \$25,000 fine, which the company paid at the sentencing, for two counts of third degree water pollution. Defendants Kelly and Kocis, co-owners of Donald Kelly, Inc., were responsible for the discharge of wastewater contaminated with toxic pollutants from Kelly Drum, a drum reconditioner in Camden, into the Camden sewer system from June 1999 to January 2003.

2. In **State v. Urcioli and Tunnel Barrel & Drum, Inc.** (Accusation Nos. 03-10-01990A and 03-10-01991A), the State filed Accusations against the company and its president for third degree water pollution, contrary to N.J.S.A. 58:10A-10f. Both defendants pled guilty to discharging contaminated rinsewater from Tunnel's drum cleaning operation into a tributary of the Hackensack River.

3. In **State v. Bachstadt** (Indictment No. 03-03-00048-S), the State Grand Jury returned a two count indictment against defendant charging him with third and fourth degree unlawful sale of wildlife, contrary to N.J.S.A. 23:4-27. Defendant, the owner of a Middletown tavern, is charged with selling large quantities of undersized lobster tails to a Fish and Game undercover officer. Defendant was admitted into Pretrial Intervention conditioned upon paying \$50,000 to the New Jersey Shellfisheries Law Enforcement Fund. This is the State's first criminal prosecution under the Fish and Wildlife law.

4. In **State v. Aristedes Perez** (Accusation No. 809-3), the State filed an Accusation against the defendant for a fourth degree violation of the Water Pollution Control Act (N.J.S.A. 58:10A-10f), for discharging oil contaminated water from an underground storage tank at a site he owned into the Union City sewer system. Defendant was admitted into

Pretrial Intervention conditioned upon paying for the cost of the cleanup and paying a \$1,000 fine.