

PUBLICATION

Lab Director Imprisoned for Falsifying Water Sampling

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If a company or a laboratory has purposefully misrepresented to regulators the chemicals or contaminants tested for or the levels of those constituents detected by the testing, regulators may seek criminal prosecution of the responsible parties. It is not uncommon to see prosecution of persons who have falsified sampling data with the intent to make it appear that the tested water has cleared water quality or permit standards when in fact it has not.

Regulators depend heavily on the integrity of the suppliers of drinking water and generators of wastewater, to test and monitor the quality of water supplied to the public or released into the environment. Federal and state regulators cannot conduct all testing necessary to assure drinking water supplied by a municipality is safe. Taxpayers cannot or would not want to pay for regulatory agencies staffed large enough to guarantee that all waste water generated, treated and discharged by manufacturing plants has been sufficiently treated to be released without harm to the environment. Consequently, compliance with the federal Safe Drinking Water Act and Clean Water Act, which regulate the quality of drinking water and wastewater, is founded on an honor code of self-testing and self-reporting by companies and municipalities.

A recent case investigated by Special Agent Ricky Knight of USEPA's Criminal Investigation Division, resulted in the conviction of a laboratory director who admitted to misrepresenting the breadth of testing his lab had applied to water samples from municipalities and other customers throughout the Mississippi Delta. Guilty pleas are often accompanied by an "information," a statement of factual allegations to which a defendant admits as the basis for a guilty plea. In this case, a laboratory director, John Couey, plead guilty to a criminal information which stated that his lab, Davis Research, Inc., misrepresented to the Mississippi Department of Environmental Quality that it had tested water samples for methanol (57 instances), nitrogen (960 instances), phosphorus (850 instances), and metals (40 instances). At the sentencing hearing, defense counsel, Edward Bogan, stated that U.S. Probation sent victim impact statements to over 150 of Davis Research's clients.

Couey, according to the criminal information, represented to regulators that these tests had been run when in fact the lab lacked the equipment to run these tests. At the sentencing hearing, Assistant U.S. Attorney Robert Mims argued to the court that municipalities released their wastewater into receiving streams or storm sewers in reliance on the reports from Davis Research, showing that the wastewater complied with the Clean Water Act, when in fact it did not.

At his sentencing hearing, Couey accepted responsibility for his actions. Both he and the sentencing court referred to financial difficulties encountered by Couey. Couey stated, "I did what I did, and I can't come up with a logical explanation that can even justify what I did because that's not how I was raised. That's not who I am."

As is the case in many federal environmental criminal cases, U.S. District Court Judge Glen Davidson sentenced Couey to serve 18 months in prison, a sentence that was within the sentencing range calculated by U.S. Probation using the federal sentencing guidelines.

For more information, please contact [Michael T. Dawkins](#) or any member of [Baker Donelson's Environmental Team](#).

