



Environmental Crimes Case Bulletin

U.S. Environmental Protection Agency
Office of Criminal Enforcement, Forensics and Training

This bulletin summarizes publicized investigative activity and adjudicated cases conducted by OCEFT Criminal Investigation Division special agents, forensic specialists, and legal support staff. To subscribe to this monthly bulletin you may [sign up for email alerts](#) on our publications page.

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Region 5	Theodore Nelson, Jr. (AKA Ted Nelson)	FIFRA/Unlawful taking of Bald Eagle; Unlawful use of pesticide

Virginia Chemical Distributor Sentenced for Illegally Storing and Transporting Hazardous Waste --On September 16, 2016, **CHEM-SOLV**, formerly known as Chemicals and Solvents Inc., a Roanoke, Virginia-based chemical distributing company, which previously pleaded guilty to illegally storing hazardous waste and to transporting hazardous waste from its facility in Roanoke to another facility, was sentenced in federal district court for the Western District of Virginia for illegally storing and transporting hazardous waste.

Chem-Solv entered into a plea agreement with the United States in December 2015 in which it agreed to pay a \$1 million criminal fine for these violations, as well as an additional \$250,000 to fund environmental community service projects. Chem-Solv has agreed to serve five years' probation, during which time it must develop and implement an environmental compliance plan and be subjected to yearly independent environmental audits. In conjunction with the criminal settlement, the U.S. EPA reached a civil settlement with Chem-Solv and the company paid a \$250,000 penalty to settle alleged violations of improper hazardous waste storage at Chem-Solv's Roanoke facility.

Chem-Solv operates a chemical blending and distribution facility in Roanoke as well as distribution facilities in Colonial Heights, Virginia, Rock Hill, South Carolina, and Piney Flats, Tennessee. Chem-Solv is in the business of purchasing chemicals and then reselling them to customers, either directly or after repackaging. Occasionally, Chem-Solv generated hazardous waste. A

hazardous waste is waste which, because of its designation, quantity, concentration, or characteristics, poses a substantial present or potential hazard to human health or the environment.

Count One of the Information is based on a spill of several hundred gallons of ferric chloride – a hazardous substance – on the Chem-Solv facility in Roanoke in June 2012. Although most of the waste was cleaned up using vacuum trucks, some of the ferric chloride flowed from the Chem-Solv facility onto an adjoining property both before, and

during, the cleanup. The pleadings allege that the adjoining property owner was not notified that ferric chloride had leaked onto their property. Chem-Solv then employed a waste transportation company to transport the waste to a disposal facility. Hazardous waste may only be transported by permitted carriers, and it must be properly placarded and be accompanied by a hazardous waste manifest identifying the waste and its characteristics. The pleadings allege that, although Chem-Solv was aware of the hazardous nature of ferric chloride, it did not properly test the waste and instructed the transporter to transport the waste as non-hazardous, without the proper placards and manifests.



Count Two of the Information charges Chem-Solv with the improper storage of hazardous waste. Chem-Solv was given advance notice of an EPA inspection in December 2013. At the time the advance notice was given, Chem-Solv was storing numerous containers of chemical waste on its facility that should have been disposed of properly. The pleadings allege that Chem-Solv directed its employees to load three trailers with the chemical waste in an attempt to prevent EPA inspectors from discovering it. Two of the three trailers were taken offsite. The third trailer, which was not road worthy, was stored on the Chem-Solv property for almost a year and its contents were discovered by law enforcement officers on Nov. 19, 2014, while executing a search warrant. That trailer was found to contain hazardous waste that Chem-Solv did not have a permit to store on its facility.

The case was investigated by EPA's Criminal Investigation Division and the U.S. Department of Transportation's Office of Inspector General. Assistance in the investigation was provided by the Roanoke Fire-EMS Department, the Virginia Department of Environmental Quality, Roanoke City Police Department, and other members of the Blue Ridge Environmental Task Force. The prosecution was handled by Assistant U.S. Attorney Jennie L. M. Waering, Senior Trial Attorney James B. Nelson of the Department of Justice's Environmental Crimes Section, and Special Assistant United States Attorney and EPA Regional Criminal Enforcement Counsel David Lastra.

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New Hampshire Company Sentenced on Solid Waste Felonies -- On September 26, 2016, **PLH, LLC**, a New Hampshire limited liability company managed by Stephen Pelkey in Jaffrey, New Hampshire, entered pleas of guilty in Cheshire County Superior Court to two felony indictments for failure to lawfully manage regulated waste and was sentenced on September 26, 2016.

The indictments allege that PLH, LLC unlawfully operated a solid waste facility by keeping broken Cathode Ray Tubes (CRTs) from old computer monitors or televisions buried in the ground without a permit at its property at 136 Old Sharon Road in Jaffrey between 2010 and 2013 and also stored used monitors above ground without a permit where they were exposed to the elements. The judge imposed a fine of \$250,000 plus a \$10,000 penalty assessment on the indictment alleging the company kept buried CRTs between July 2010 and August 2013. The court also sentenced PLH on the second indictment of improper maintenance of CRT waste to a consecutive fine of \$250,000 that has been suspended provided the company remains of good behavior for ten years. Identical indictments against Atlas PyroVision Entertainment Group, Inc., formerly known as Atlas Advanced Pyrotechnics, Inc. Atlas Fireworks Factory, Inc. and Atlas Property Management, LLC, have been dropped upon the pleas of guilty and acceptance of responsibility by PLH, LLC.

New Hampshire law requires that anyone who operates a solid waste storage facility apply for and retain a proper permit issued by the New Hampshire Department of Environmental Services (NHDES). PLH, LLC and the Atlas companies had no such permit.

In May, 2013, NHDES became aware through tips from informants that Pelkey had instructed employees to dig trenches for the monitors, crush the glass and remove metal parts for recycling, and then bury the remainder. After an initial investigation that located buried CRTs, EPA began a criminal investigation, conducting further interviews of employees and former employees. When questioned by NHDES about the burial in



August 2013, Pelkey and his companies voluntarily agreed to have the waste excavated. Over 100,000 pounds of waste was then disposed of properly at the defendants' expense. The investigation culminated in formal criminal charges against PLH, LLC and Atlas PyroVision Entertainment Group, Inc.

PLH, LLC paid a first scheduled installment of \$25,000 and the \$10,000 penalty assessment toward the total \$250,000 fine and will make increasing yearly payments ending in October 2019 pursuant to a schedule imposed by the court as part of the sentence.

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Letcher Man Sentenced for Unlawful Taking of Bald Eagle and Unlawful Use of Pesticide — On September 27, 2016, **THEODORE NELSON, JR., AKA Ted Nelson**, age 69, was sentenced to 8 months in custody with 6 months to run concurrent with a prior federal tax evasion sentence and 2 months to run consecutive. Nelson was also sentenced to one year of supervised release on the condition that he pay \$2,500 in restitution. Nelson was also ordered to pay a special assessment to the Federal Crime Victims Fund in the amount of \$35 for both offenses. In April 2016, Nelson was found guilty, after a two day trial, of Unlawful Taking of a Bald Eagle and Unlawful Use of a Pesticide.

“Today’s sentence reaffirms our commitment to the protection of eagles and other wildlife in the District of South Dakota.” said United States Attorney Randy Seiler. “We will continue to prosecute and hold accountable those who intentionally and recklessly kill eagles and other protected wildlife in the District of South Dakota”

The conviction stemmed from incidents between January 1, 2015, and May 12, 2015, when Nelson, who is a landowner in Sanborn County, without being permitted to do so, knowingly and with wanton disregard for the consequences of his actions, injected a poison, Carbofuran (also known as Furadan 4F) into the carcasses of cows in order to kill predators, including coyotes. Carbofuran is a restricted use pesticide that is extremely toxic to wildlife, including birds. Use of this pesticide for baiting purposes is strictly prohibited, and the label of the Carbofuran’s container says so.

As a result of Nelson’s actions, area animals, including coyotes, and an adult Bald eagle, died of Carbofuran poisoning. Laboratory results from the National Fish & Wildlife Forensic Laboratory in Ashland, Oregon, confirmed that the eagle died of Carbofuran poisoning after eating coyote carcasses that were poisoned with Carbofuran.

“The purposeful misapplication of a pesticide like Furadan 4F to kill coyotes and other predators can be devastating to all wildlife up and down the food chain, including eagles” said U.S Fish and Wildlife Service Mountain-Prairie Region Assistant Special Agent in Charge Dan Rolince. “This conviction and sentence send a clear message that intentional and unlawful activities that result in the death of federally protected species will not be tolerated.”

“The defendant intentionally and illegally used a restricted use pesticide as bait, which put people, wildlife and the environment at risk,” said Jeffrey D. Martinez, Special Agent in Charge of EPA’s criminal enforcement program in South Dakota. “Today’s sentence sends a strong signal that individuals who misuse restricted use pesticides will be prosecuted.”

This case was investigated by the U.S. Fish & Wildlife Service, the Environment Protection Agency and the South Dakota Department of Game, Fish and Parks. Assistant U.S. Attorney Meghan N. Dilges prosecuted the case.



Exhibit Photo— Adult bald eagle killed after ingesting Carbofuran-poisoned coyote carcass

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District of Columbia Man Pleads Guilty to CAA Crime -- On September 7, 2016, **JAMES POWERS**, of Washington, D.C., pleaded guilty in federal district court for the District of Columbia to violating the Clean Air Act for his role in a scheme to improperly remove asbestos from a historic building in the District of Columbia. Sentencing is scheduled for December 16, 2016. The charge carries a statutory maximum of five years in prison and potential financial penalties.

Asbestos, a once-popular fireproofing insulation, is now known to cause lung cancer, asbestosis and mesothelioma in people who inhale the fibers released when asbestos is disturbed. Congress has determined that there is no safe level of exposure to asbestos. The Clean Air Act requires that renovation in asbestos-containing properties follow specific protocols designed to safely remove asbestos from the property prior to any renovation or demolition activity, so as not to expose workers to the risk of deadly respiratory diseases.

The development project at issue involved renovating the historic Friendship House, located at 619 D Street SE in Washington, D.C., into condominiums, a development known as the Maples. According to a statement of offense submitted as part of the guilty plea, in March 2010, Powers formed a partnership with a local real estate development firm to purchase and renovate the property. An asbestos survey of the property documented asbestos throughout the property, including in floor tiles, wall board and pipe insulation.



After the survey, the partnership received bids from licensed professional asbestos abatement and renovation firms in the area. Despite knowing that the building contained asbestos, Powers hired Larry Miller, of Palmetto, Georgia, a general contractor from Atlanta with no training, certification, or experience in asbestos abatement, to conduct interior demolition and renovation of the building. The written contract with Miller specifically excluded removal of asbestos from the property. Powers told Miller that the asbestos would be abated by another contractor after Miller's work and did not fully inform Miller about the extent of asbestos in the property. Powers represented to his partners that a qualified entity would conduct appropriate asbestos abatement at the property. He e-mailed them a proposed asbestos abatement contract from a corporation that, unbeknownst to his partners, was simply an alter-ego for Powers.

During the period between August 2011 and October 2011, according to the statement of offense, Miller and his crew of workers conducted interior demolition at the Maples, without any asbestos abatement having occurred as required under the Clean Air Act. Powers also contracted with a waste disposal company to haul construction debris from the Maples off-site. Powers failed to inform the waste disposal company that the construction debris contained asbestos and the debris was not taken to a site qualified to receive asbestos waste.

Even after an inspection by local environmental authorities revealed asbestos in the building, Powers had

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Miller and his crew members proceed with demolition. Over the course of the project, the workers disturbed substantial quantities of asbestos, exposing themselves to a substantial risk of serious illness later in life.

Miller pleaded guilty on Nov. 19, 2015, to one count of negligent endangerment under the Clean Air Act. He is awaiting sentencing in the U.S. District Court for the District of Columbia. The charge carries a maximum sentence of not more than one year of imprisonment, a fine of up to \$100,000 and a term of supervised release and/or probation.

After the acts described in the statement of offense, a licensed asbestos abatement firm conducted abatement at the Maples. The District of Columbia Department of the Environment subsequently conducted inspections and found the property to be free of all asbestos-containing materials.

The case was investigated by EPA's Criminal Investigation Division and the Department of Transportation. It was prosecuted by Trial Attorney Cassandra J. Barnum and Paralegal Specialist Cynthia Longmire of the Environmental Crimes Section and those who worked on the case at the U.S. Attorney's Office, including Paralegal Specialists Kaitlyn Krueger, former Paralegal Specialists Krishawn Graham and John Lowell and former Assistant U.S. Attorney Jonathan Hooks and Assistant U.S. Attorneys Virginia Cheatham and Zia Faruqi.

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Former North Carolina Town Employee Pleads Guilty to Falsifying Drinking Water Sampling Results -- On September 26, 2016, **CHRISTOPHER DALE MILLER**, of Cary, North Carolina, pleaded guilty in federal district court for the Eastern District of North Carolina pleaded guilty to making material false statements in connection with sampling required under the Safe Drinking Water Act. He is scheduled to be sentenced on December 12, 2016.

According to the Criminal Information and information in the public record, Miller was employed by the town of Cary as a state certified distribution technician. Miller was responsible for, among other things, collecting water samples for testing from the drinking water system and testing for residual chlorine in the field. Miller was further responsible for collecting samples from various locations; packaging and placing the samples in a cooler; and delivering them to the Town of Cary's lab where they were tested for total coliform and bacteria. Miller, however, failed to do so. The investigation revealed that Miller made false statements by certifying to the Town of Cary that he obtained water samples from the required locations when, in reality, he only took samples from a few locations. The certified sample locations were submitted along with the lab results to North Carolina Department of Environmental Quality ("NCDEQ") (formerly known as the North Carolina Department of Environment and Natural Resources). The samples and associated documentation are required as part of the NC DENR's drinking water monitoring program. By sending falsified samples and documents to NC DENR, Miller inhibited NC DENR from carrying out its mission to protect public water supplies and thereby public health. Between August 27, 2014 and December 2014, Miller falsified documentation for at least 278 samples.

The Town of Cary discovered the falsified sampling in late December 2014 and conducted an internal investigation. Miller initially lied to his supervisors, and then later, admitted to collecting multiple samples from the same site and falsifying chain of custody documents. Miller knew that his conduct impacted 225,000 consumers of the public water system. The Town of Cary terminated Miller, promptly reported the matter to state officials, and fully cooperated in the federal investigation.

The case was investigated by EPA's Criminal Investigation Division and the North Carolina State Bureau of Investigation – Drug Diversion and Environmental Crimes Unit. Assistant United States Attorney Banumathi Rangarajan handled the prosecution on behalf to the Eastern District of North Carolina with the assistance of EPA Region IV – Regional Criminal Enforcement Counsel/Special Assistant United States Attorney Jennifer M. Lewis.

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Volkswagen Engineer Pleads Guilty for His Role in Conspiracy to Cheat U.S. Emissions Tests —

JAMES ROBERT LIANG, a Volkswagen engineer, pleaded guilty for his role in a nearly 10-year conspiracy to defraud U.S. regulators and U.S. Volkswagen customers by implementing software specifically designed to cheat U.S. emissions tests in hundreds of thousands of Volkswagen “clean diesel” vehicles, the Justice Department announced. Liang’s plea agreement provides that he will cooperate with the government in its ongoing investigation.

Liang, 62, of Newbury Park, California, pleaded guilty to one count of conspiracy to defraud the United States, to commit wire fraud and to violate the Clean Air Act. He was indicted under seal on June 1, 2016, by a federal grand jury, and the indictment was unsealed. The case has been assigned to U.S. District Judge Sean F. Cox of the Eastern District of Michigan.

According to the plea agreement, from 1983 until May 2008, Liang was an employee of Volkswagen AG (VW), working in its diesel development department in Wolfsburg, Germany. Liang admitted that beginning in about 2006, he and his co-conspirators started to design a new “EA 189” diesel engine for sale in the United States. According to Liang’s admissions, when he and his co-conspirators realized that they could not design a diesel engine that would meet the stricter U.S. emissions standards, they designed and implemented software to recognize whether a vehicle was undergoing standard U.S. emissions testing on a dynamometer or being driven on the road under normal driving conditions (the defeat device), in order to cheat the emissions tests. Liang admitted that he used the defeat device while working on the EA 189 and assisted in making the defeat device work. In May 2008, Liang moved to the United States to assist in the launch of VW’s new “clean diesel” vehicles in the U.S. market, according to the plea agreement. While working at VW’s testing facility in Oxnard, California, he has held the title of Leader of Diesel Competence.



According to the plea agreement, employees of VW and its U.S. subsidiary met with the EPA and the California Air Resources Board (CARB) to seek the certifications required to sell each model year of its vehicles to U.S. customers. Liang admitted that during some of these meetings, which he personally attended, his co-conspirators misrepresented that VW diesel vehicles complied with U.S. emissions standards and hid the existence of the defeat device from U.S. regulators.

As part of the certification process for each new model year, including model years 2009 through 2016, the co-conspirators continued to falsely and fraudulently certify to EPA and CARB that VW diesel vehicles met U.S. emissions standards and complied with the Clean Air Act, according to the plea agreement. Liang admitted that during this time, he and his co-conspirators knew that VW marketed its diesel vehicles to the U.S. public as “clean diesel” and environmentally-friendly, and promoted the increased fuel economy. Liang and his co-conspirators knew that these representations were false and that VW’s diesel vehicles were not “clean,” he admitted.

In connection with pleading guilty, Liang admitted that he helped his co-conspirators continue to lie to the EPA, CARB and VW customers even after the regulatory agencies started raising questions about the vehicles’ on-road performance following an independent study commissioned by the International Council on Clean

Transportation, which showed that the diesel vehicles' emissions on the road were up to 40 times higher than shown on the dynamometer.

The FBI's Detroit Office and EPA-CID are investigating the case. Deputy Chief Benjamin D. Singer and Trial Attorney Alison L. Anderson of the Criminal Division's Fraud Section, Trial Attorney Jennifer L. Blackwell of the Environment and Natural Resources Division, and Criminal Division Chief Mark Chutkow and Economic Crimes Unit Chief John K. Neal of the U.S. Attorney's Office of the Eastern District of Michigan are prosecuting the case.

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Owner of Biofuel Company Pleads Guilty to Conspiracy and Obstruction — MALEK JALAL, 52, owner and manager of a New Jersey feedstock collector and processor pleaded guilty to conspiracy and obstruction for his role in a scheme that generated over \$6 million in fraudulent tax credits and the U.S. Environmental Protection Agency (EPA) renewable fuels credits (RIN credits) connected to the purported production of biodiesel fuel.

Jalal pleaded guilty before U.S. District Magistrate Judge Norah McCann King for the Southern District of Ohio, announced Assistant Attorney General John C. Cruden for the Department of Justice’s Environment and Natural Resources Division, Acting U.S. Attorney Benjamin C. Glassman for the Southern District of Ohio, Special Agent in Charge Kathy A. Enstrom for the Internal Revenue Service’s Criminal Investigation and Acting Special Agent in Charge John Gauthier of EPA’s Criminal Enforcement Program in Ohio.

According to his plea, Jalal engaged in a scheme with other co-conspirators to fraudulently claim tax credits and RIN credits multiple times on the same loads of fuel. Jalal, who owned Unity Fuels, bought fuel from a New York-based company that arranged for tax credits and RIN credits to be claimed on it. Unity Fuels then blended the fuel with other material and sold it back to the New York company in order to claim tax credits and RIN credits again. Jalal also admitted to obstruction of justice for providing a federal grand jury with altered and falsified documents and to destroying other documents in connection with the subpoena.

Jalal bought fuel from a New York-based company that arranged for tax credits and RIN credits to be claimed on it... then blended the fuel with other material and sold it back to the New York company in order to claim tax credits and RIN credits again.

“Congress enacted programs incentivizing the production of biofuels in order to make the United States more energy independent and to modernize our energy economy,” said Assistant Attorney General Cruden. “The fraud perpetrated by Mr. Jalal and his co-conspirators undermines these important public policies. This case demonstrates that the Justice Department will vigorously prosecute those seeking to manipulate these programs for personal gain.”

“Violations of renewable fuels laws can have serious impacts on the marketplace and hurt companies that play by the rules,” said Acting Special Agent in Charge Gauthier. “EPA and its law enforcement partners will continue to protect public health and the environment by prosecuting those who blatantly violate laws that reduce greenhouse gas emissions.”

Conspiracy is punishable by up to five years in prison. Obstruction is punishable by up to 20 years in prison. U.S. District Judge Graham will determine the sentence following a pre-sentence investigation by the court.

Assistant Attorney General Cruden and Acting U.S. Attorney Glassman commended the cooperative investigation by law enforcement, as well as Department of Justice Trial Attorney Adam Cullman, Senior Trial Attorney Jeremy Korzenik and Assistant United States Attorney J. Michael Marous, who represented the United States in this case.

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Pennsylvania Man and Engineering Firm Indicted for CWA Violations and Tampering with Government Witness -- On September 7, 2016, **DAVID D. KLEPADLO, CLARKS SUMMIT**, and **DAVID D. KLEPADLO & ASSOCIATES, INC.**, were charged in an Indictment returned by a federal grand jury in federal district court for the Middle District of Pennsylvania on September 6.

The Indictment was unsealed following Klepadlo's initial appearance before U.S. District Magistrate Judge Karoline Mehalchick. Judge Mehalchick ordered him to surrender his passport, have no contact with co-conspirators or government witnesses, and travel is limited to within the Middle District of Pennsylvania.

According to United States Attorney Peter Smith, Klepadlo, along with the engineering company he owns, David D. Klepadlo & Associates, Inc., are charged with conspiracy to violate the Federal Clean Water Act, multiple counts of specific Clean Water Act violations, and Tampering with a Government Witness.

The Indictment alleges that Klepadlo is certified by the Commonwealth of Pennsylvania as a waste water treatment plant operation. Klepadlo and his company contracted with local municipalities to operate and manage the municipalities' waste water treatment plants in accordance with regulations and limitations in permits issued by the Pennsylvania Department of Environmental Protection (PADEP) and the U.S. Environmental Protection Agency (EPA).

The permits required that the permittee at all times maintain in good working order, and properly operate all facilities and systems installed and used to achieve compliance with the terms and conditions of the permits. It is alleged that for approximately two years, beginning in May 2012 and continuing through June 2014, Klepadlo and his company failed to properly operate and maintain the facilities and systems of treatment and control, in accordance with terms and conditions of the permits.

The facilities identified in the Indictment are the Greenfield Township Sewer Authority in Lackawanna County and the Benton/Nicholson Sewer Authority in both Lackawanna and Wyoming Counties.

The Indictment further alleges that as part of the conspiracy, Klepadlo knowingly failed to take daily and weekly samples and measurements required for the purpose of monitoring pollutants discharged into waterways of the United States; knowingly created false test results and falsely reported those results in discharge monitoring reports submitted monthly to the PADEP and the EPA; and knowingly diluted pollutant samples when the samples were believed to exceed the limits specified in the permit.

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Klepadlo is also charged with corruptly attempting to persuade a government witness to fabricate a false explanation for the Clean Water Act violations for the purpose of influencing testimony of a witness in an official proceeding involving the testing and registering requirements of the permits.

Waste water from the Greenfield publicly-owned treatment plan is discharged into a tributary of Dundaff Creek, which flows into Tunkhannock Creek, which flows into the Susquehanna River. Waste water from the Benton/Nicholson facility flows into a tributary of South Branch Tunkhannock Creek, which also flows into the Susquehanna River.

The case was investigated by EPA's Criminal Investigation Division, the Pennsylvania Department of Environmental Protection, and the Federal Bureau of Investigations. Prosecution is assigned to Assistant United States Attorney Michelle Olshefski.

Indictments and Criminal Informations are only allegations. All persons charged are presumed to be innocent unless and until found guilty in court.

In this case, the maximum penalty under the Conspiracy statute is 5 years' imprisonment and a \$250,000 fine. The Clean Water Act violations are punishable by up to 3 years' imprisonment and a sliding scale for fines of \$5,000 to \$25,000 per violation, per day. The maximum penalty under the Tampering with a Witness statute is 20 years' imprisonment, and a \$250,000 fine. Each crime also carries a term of supervised release following imprisonment. Under the Federal Sentencing Guidelines, the Judge is also required to consider and weigh a number of factors, including the nature, circumstances and seriousness of the offense; the history and characteristics of the defendant; and the need to punish the defendant, protect the public and provide for the defendant's educational, vocational and medical needs. For these reasons, the statutory maximum penalty for the offense is not an accurate indicator of the potential sentence for a specific defendant.

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