



# National Enforcement Investigations Center

## Case Results – Martin Kimber

### RCRA Knowing Endangerment Criminal Case

#### Field, Analytical and Toxicology Capabilities

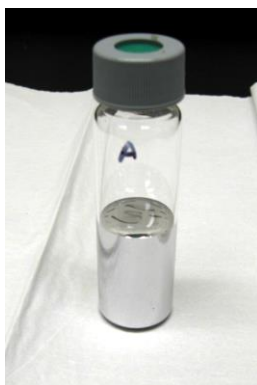
#### NEIC's Support:

- Forensics-based field sampling and measurements, and laboratory analyses accredited under ISO/IEC: 17025.
- Interpretation of analytical results
- Analytical consultations
- Toxicological expertise:
  - Consultations
  - Assessments
  - Expert reports and testimony

#### NEIC's Other Capabilities:

- Field inspections and investigations
- Statistical services
- CAA, 112r, CWA, and EPCRA expertise
- Training

**Background:** Martin Kimber, a licensed pharmacist, was a patient at the Albany Medical Center in New York in December 2010. Following treatment, he exchanged correspondence with hospital administrators concerning the cost of care and what he believed were unfair medical bills, which totaled approximately \$9,000. Between March 2011 and March 2012, liquid mercury was found in locations throughout the hospital on four separate occasions. Surveillance video showed Kimber spreading mercury in the cafeteria, including on food consumed by one person. Local law enforcement executed a search warrant and found suspected liquid mercury in Kimber's garage and vehicle.



**NEIC's support:** In April 2012, at the request of EPA's Criminal Investigation Division, an NEIC Technical Coordinator (NTC) took possession of the suspected liquid mercury evidence from the Albany Police Department for shipment to the NEIC laboratory for analysis. Laboratory analysis determined the material was hazardous waste under the Resource Conservation and Recovery Act (RCRA), as samples exceeded the Toxicity Characteristic Leaching Procedure (TCLP) regulatory limit for mercury. Three of the samples contained liquid mercury at concentrations greater than 90 percent. To support the U.S. Department of Justice's (DOJ) claim that the defendant intended to cause harm, NEIC's toxicologist was asked by the prosecutor to prepare a report documenting the health effects from exposure to mercury.

**Enforcement results:** NEIC's support aided DOJ with the successful prosecution of this case. As a result, Martin Kimber pleaded guilty to use of a chemical weapon, possession of a chemical weapon, and consumer product tampering. He was sentenced in September 2013 to 14 years in prison and 60 months of supervised release and was prevented from employment as a pharmacist during this time or to have any non-work-related computer access. Furthermore, Kimber was ordered to pay \$200,451 in restitution to the Albany Medical Center and to forfeit his home, vehicle, and computer. Kimber's request to appeal his conviction was denied by the court in 2017.

#### How to obtain NEIC's support

NEIC provides environmental forensics support for criminal and civil enforcement cases. If you would like more information on NEIC or to request laboratory analysis, toxicological support, an investigation, technical assistance, or training from NEIC, please contact us at [neic\\_project\\_requests@epa.gov](mailto:neic_project_requests@epa.gov). You may also contact your regional enforcement coordinator for more information on requesting NEIC's support on civil projects and EPA's Criminal Investigation Division (CID) for support on criminal projects.