

Environmental Criminal Law



Criminal Law

- “being charged with a crime”
 - the case is a government versus an individual (“Crown” v. Citizen)
 - also known as Public Law or Statute Law
 - created to preserve peace and protect public interest
 - made by government (legislatures)
 - based on legislative decree (statutes)
 - enforced by government action against an individual
 - criminal courts
 - prosecution
 - guilt or innocence
 - elected representatives debate and pass legislation regarding peoples’ conduct
 - investigation (including “Green Cops”)
 - laying the charge
 - proving the offence (must show *actus reus* beyond a reasonable doubt)
 - defence (must demonstrate *mens rea* to raise a reasonable doubt)
- **Prosecution**
 - discharge occurred
 - + accused did it or allowed it
 - + contaminant
 - + into natural environment
 - + caused environmental effect
 - = onus off Crown
 - **Possible Defences**
 - failure to establish elements of offence
 - due diligence or reasonable care
 - reasonable belief in a mistaken set of facts
 - officially induced error
 - **Remedies**
 - compensation
 - clean-up
 - restoration
 - **Penalties for General Offence**
 - Individual 1st Offence \$20 000 & 1 year
 - Individual Recurring \$50 000 & 1 year
 - Corporation 1st Offence \$100 000
 - Corporation Recurring \$200 000



- **Penalties for Risk of Adverse Effect**
 - Individual 1st Offence \$50 000 & 1 year
 - Individual Recurring \$100 000 & 1 year
 - Corporation 1st Offence \$250 000
 - Corporation Recurring \$500 000

- **Penalties for Adverse Effect**
 - Individual 1st Offence \$100 000 & 2 years
 - Individual Recurring \$200 000 & 2 years
 - Corporation 1st Offence \$1 000 000
 - Corporation Recurring \$2 000 000