



At a Glance

The Office of Criminal Enforcement, Forensics and Training Incorporated Essential Discovery Elements into Its Policies and Procedures, but Additional Training Could Improve Awareness

Why We Did This Evaluation

To accomplish this objective:

The U.S. Environmental Protection Agency Office of Inspector General conducted this evaluation to determine whether the EPA's collection, retention, and production of mandatory criminal discovery materials adhered to requirements. The U.S. Constitution's due process clauses, the *Brady* Doctrine, the Jencks Act, and the *Federal Rules of Criminal Procedure* establish requirements for the government's obligation to disclose discoverable information in criminal proceedings.

The EPA Office of Criminal Enforcement, Forensics and Training investigates environmental crimes, obtains evidence, and helps prosecutors understand the details of a case as it progresses through the federal criminal process. Prosecutors familiarize themselves with the facts of the crime and provide the defendant with copies of materials and evidence that they intend to use at trial. Similarly, the defense is required to share certain information with prosecutors. This process is known as "discovery."

To support these EPA mission-related efforts:

- *Compliance with the law.*
- *Operating efficiently and effectively.*

To address this top EPA [management challenge](#):

- *Maximizing compliance with environmental laws and regulations.*

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What We Found

We did not identify any specific circumstances where the EPA Office of Criminal Enforcement, Forensics and Training did not adhere to criminal discovery requirements regarding the collection, retention, and production of material. OCEFT has incorporated essential elements of discovery obligations, such as the *Brady* Doctrine, the Jencks Act, and the *Federal Rules of Criminal Procedure*, into its criminal investigations policies and procedures to facilitate required discovery disclosures.

We found that some special agents employed investigative procedures that deviated from OCEFT procedures, such as using a personal camera for investigative activities and not retaining a digital recording of a voicemail. The procedural deviations that we identified were not violations of discovery requirements; however, they present an investigative process risk that could negatively impact discovery during criminal proceedings. As such, additional training for special agents, including discovery training for newer special agents and refresher trainings on OCEFT internal policies and procedures, may improve awareness of processes and promote best practices.

Strengthening adherence to EPA discovery policies and procedures can promote efficient and effective criminal prosecution.

Recommendations and Planned Agency Corrective Actions

We recommend that the assistant administrator for Enforcement and Compliance Assurance review policies and procedures to determine whether updates are needed to improve processes or include best practices. We also recommend periodic training to EPA employees who may support a prosecution team to promote awareness and adherence to discovery requirements and investigative policies and procedures. The Agency agreed with our recommendations and provided acceptable planned corrective actions with estimated completion dates. We consider the recommendations resolved with corrective actions pending. The Agency also provided technical comments, which we considered and incorporated, as appropriate.