

WLF LAUNCHES INVESTIGATION OF AGENCY ENFORCEMENT ABUSE

by
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The Washington Legal Foundation (WLF) recently launched an investigation of abusive federal agency inspection and enforcement actions against businesses and individuals. In a series of Freedom of Information Act (FOIA) requests recently filed with the Environmental Protection Agency (EPA) and five other regulatory agencies, WLF is demanding that the agencies disclose copies of complaints filed against any enforcement agent, as well as the result of any investigation by the agency's Inspector General or other office. WLF is also asking the agencies to disclose their training manuals, which will reveal enforcement policies, including the use of weapons that are carried by agency personnel in the course of conducting inspections and searches.

WLF's probe into agency misconduct was spurred by a number of instances where enforcement agents had harassed and threatened business owners, their employees, and others in the course of investigating suspected violations of agency regulations. For example, WLF is litigating a malicious prosecution lawsuit against the EPA and three EPA agents on behalf of WLF's client, a small Massachusetts company, Riverdale Mills Corporation, and its owner, James M. Knott, Sr. A few years ago, the EPA filed felony criminal charges against the company, which makes steel wire mesh for lobster traps and other uses, for allegedly discharging a small amount of rinsewater that was below a 5 pH level, even though the government does not dispute the fact that there was absolutely no environmental harm caused by the rinsewater. The criminal charges were dropped shortly before trial when it was discovered that EPA's pH level readings were altered. The trial court had found that the raid of the company by some 21 armed EPA agents and other law enforcement personnel constituted a "virtual SWAT team," members of which threatened secretaries and other employees, causing them "great distress and discomfort." This and another story of EPA abuse was televised on CBS's "60 Minutes."

In addition to the EPA, WLF's investigation is directed at the Occupational Safety and Health Administration (OSHA), the Food and Drug Administration (FDA), the Department of Interior's Office of Surface Mining and Bureau of Land Management (BLM), and the U.S. Forest Service of the Department of Agriculture. WLF is investigating other regulatory agencies and plans on issuing future FOIA requests. WLF will consider filing suit against the agencies if they fail to release the requested documents.

If corporate or private counsel are aware of instances of abusive investigative and enforcement practices by the EPA personnel or other government regulators, they are urged to contact the author at 202-588-0302 or pkamenar@wlf.org.

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About WLF And The COUNSEL'S ADVISORY

The Washington Legal Foundation (WLF) is the nation's largest non-profit, free enterprise public interest law and policy center. WLF litigates *and* publishes in order to advocate legal policies that promote economic growth, job creation, and the civil liberties of business. As a 501(c)(3) tax exempt organization, WLF relies upon the charitable support of individuals, businesses, associations, and foundations to fund its programs.

This COUNSEL'S ADVISORY is one of WLF's seven publication formats. Its purpose is to inform the free enterprise community about a development in the legal policy world that can be favorably influenced by the immediate involvement of legal experts and business and community leaders.

For more information on the Washington Legal Foundation, please contact Daniel J. Popeo, Chairman, at (202) 588-0302.

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