

NEW DEVELOPMENTS IN SUSTAINABILITY AND ENVIRONMENTAL HEALTH

Introduction to the Environmental Crimes Unit,
Delaware County District Attorney's Office

March 24, 2022

DELAWARE COUNTY DISTRICT ATTORNEY'S OFFICE - ENVIRONMENTAL CRIMES UNIT

- Sustainability and the Mission of the DA's Office
- Introduction to the ECU
- ECU Focus: Environmental Justice Areas

SUSTAINABILITY

Sustainability means “meeting the needs of present without compromising the ability of future generations to meet their own needs.”

United Nations Brundtland Commission’s “Report of the World Commission on Environment and Development: Our Common Future, 1987.”

DA Stollsteimer’s *Smart on Crime* Platform

- Government ethics
- Gun violence reduction
- Criminal justice reform
- Workers’ rights
- ***Environmental Protection***

Environmental Crimes Unit launched Jan 2020

INTRODUCTION TO THE ECU

COMMUNITY PROSECUTION

A departure from the case and conviction orientation of traditional prosecution that seeks ways to prevent and reduce crime through initiatives that range from cleaning up and maintaining public parks to using civil sanctions to attack nuisance crime.

US Department of Justice, November, 2002

Stakeholders:

- State environmental regulatory agencies
- State Attorney General
- Other District Attorneys
- Local and state police
- Judicial system
- County offices, departments and agencies
- Local school districts
- Municipal officials
- NGOs + community groups
- Higher education + research institutions
- Neighbors!

ENFORCEMENT JURISDICTION



Permitting
Environmental site investigation
Civil/administrative enforcement



Environmental site investigation
Criminal enforcement



Permitting
Environmental site investigation
Civil/administrative and criminal enforcement



Criminal enforcement



MOST RELEVANT ENVIRONMENTAL STATUTES FOR THE ECU

- **Solid Waste Management Act***
- **Clean Streams Law**
- Air Pollution Control Act
- Hazardous Site Cleanup Act*
- Storage Tank & Spill Prevention Act
- Dam Safety & Encroachments Act

**Includes strict liability provisions*



RELEVANT CRIMINAL OFFENSES

- Causing or Risking a Catastrophe – Causing or risking a catastrophe by employing statutorily specific means
- Recklessly Endangering Another Person – Reckless conduct that places another in danger of death or serious bodily injury
- Criminal Trespass – unauthorized entrance onto another’s premises
- Scattering Rubbish – deposition of trash, debris or dangerous substances on the land or water of another or of the Commonwealth
- Criminal Mischief – intentional/reckless tampering with another’s property
- Public Nuisance – interference with use and enjoyment of property
- Toxic Tort – damages arising from exposure to a harmful substance (including Medical Monitoring)
- Forgery and Fraudulent Practices
- Falsification and Intimidation
- Bribery and Corrupt Influence

CONSUMER PROTECTION LAW

Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or misunderstanding.

73 P.S. 201-2(4)(xxi)

PENNSYLVANIA ENVIRONMENTAL RIGHTS AMENDMENT

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people. (Article I, Section 27 of the Pennsylvania Constitution)

Pennsylvania's voters ratified the Environmental Rights Amendment on May 18, 1971 by a 4 to 1 margin.

REMEDIES

- Remediation
- Abatement
- Restitution
- Disgorgement
- Fines and penalties
- Damages
- Conviction + imprisonment
- Injunction
- Specific performance



ECU FOCUS: ENVIRONMENTAL JUSTICE AREAS

WHERE DOES THIS HAPPEN?

Over 50% of those living within 1.86 miles of a toxic waste facility are people of color.

People of color are 2 times as likely than whites to live within the fence line zone of an industrial facility.

53% of those living within 3 miles of the most heavily polluting coal-fired power plants are African Americans.

11.2% of African American children (compared to 2.3% of white children) suffer from lead poisoning.

African Americans are exposed to 56% *more* pollution than their consumption generates; whites are exposed to 17% *less* pollution than their consumption generates.



Center for American Progress, 5 Things to Know About Communities of Color and Environmental Justice, Jasmine Bell, 4/25/2016

Sustained Kitchen, Fast Facts on Environmental Racism, June 7, 2020



ENVIRONMENTAL JUSTICE (EJ) AREAS

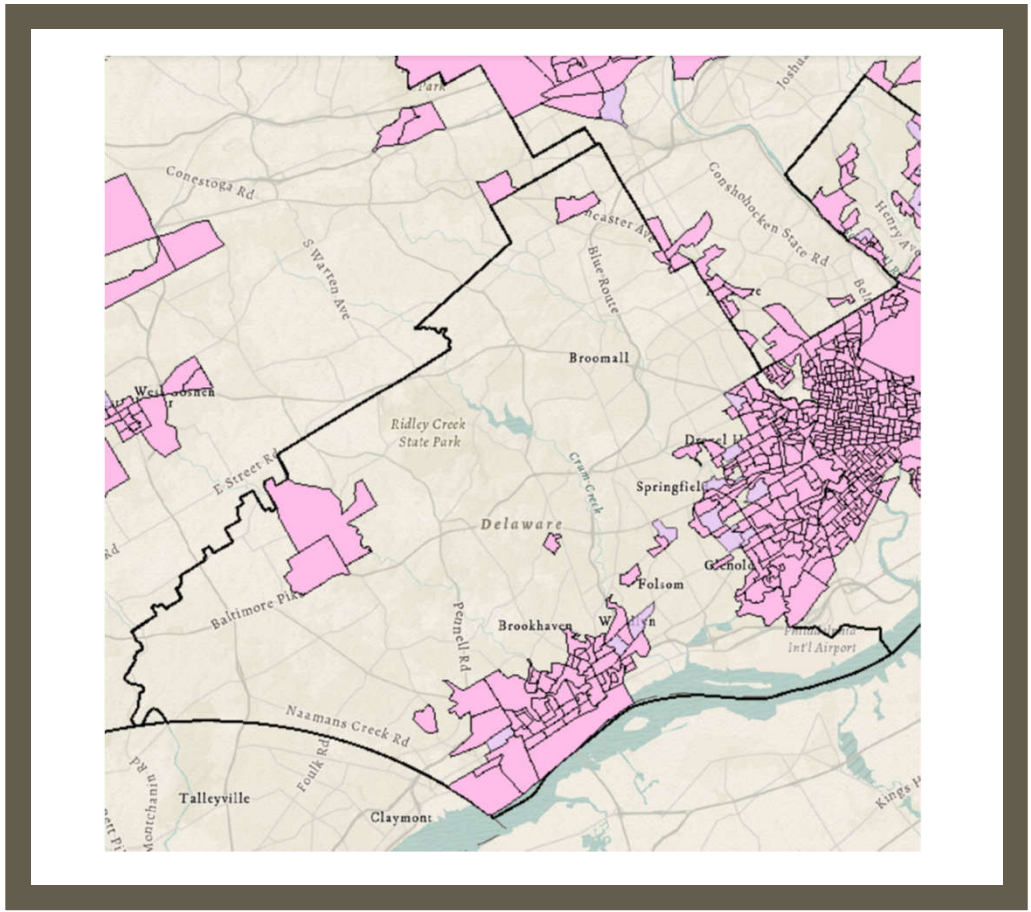
The PA DEP defines an **EJ Area** as any census tract where 20 percent or more individuals live at or below the federal poverty line, and/or 30 percent or more of the population identifies as a non-white minority, based on data from the U.S. Census Bureau and the federal guidelines for poverty.

The USEPA defines EJ as fair treatment and meaningful involvement of all people, regardless of race, color, national origin or income, in the development, implementation and enforcement of environmental laws, regulations and policies.

EJ INDEXES: CHESTER CITY

Selected Variables	State Percentile	EPA Region Percentile	USA Percentile
EJ Indexes			
EJ Index for PM2.5	91	90	84
EJ Index for Ozone	91	89	83
EJ Index for NATA* Diesel PM	91	88	84
EJ Index for NATA* Air Toxics Cancer Risk	91	89	82
EJ Index for NATA* Respiratory Hazard Index	91	88	80
EJ Index for Traffic Proximity and Volume	99	98	95
EJ Index for Lead Paint Indicator	91	93	92
EJ Index for Superfund Proximity	98	97	96
EJ Index for RMP Proximity	96	97	94
EJ Index for Hazardous Waste Proximity	95	95	91
EJ Index for Wastewater Discharge Indicator	96	98	98

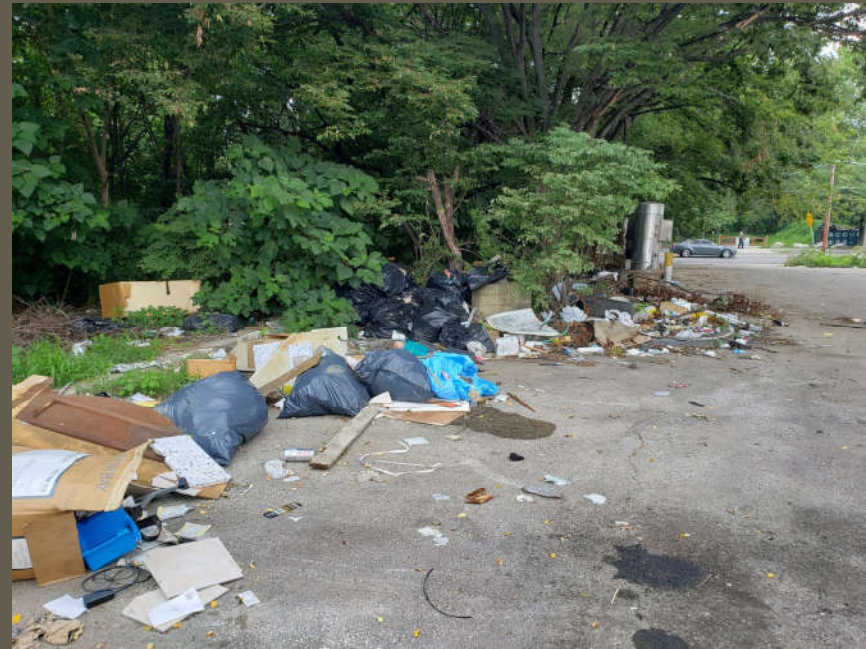
DELCO EJ AREAS



PA DEP Environmental Justice Areas Viewer

ECU AREAS OF FOCUS

- Illegal dumping / short dumping
 - Individual prosecutions
 - Community prosecuting initiative
 - Research & policy development
- PFAS litigation
- Mariner East Pipeline investigation and litigation



Keep in mind: Pollution is not always illegal.

WHAT CAN YOU DO?

I WOKE UP
FEELING
~~TIRED~~
INSPIRED

inspirationalquotes.net

- Learn more about PA DEP EJ Draft Policy and submit comments by **May 11, 2022**. (Invite others to do the same!)
- Attend the Delco Sustainability Conference.
- Get educated and vote for candidates that support expanding the authority of the PA DEP.
- Support nonprofits on the vanguard of environmental protection, resilience and justice.
- Participate in County cleanups.
- Participate in your local EAC and other environmental and justice community groups.
- Help us build a record of environmental offenses and health impacts.
- Show up + speak up (e.g., attend county and municipal public meetings).
- Let us know how we can be doing a better job to help your community.

THANK YOU

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