

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS
61 FORSYTH STREET, SW ROOM 12T20
ATLANTA, GA 30303**

REFERRAL REPORT OF INVESTIGATION CONCERNING

**UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND
TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA**

OI-AT-2015-CAC-0031

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Distribution:

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for ██████████
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OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CASE NO.: OI-AT-2015-CAC-0031

DATE OPENED: JANUARY 30, 2015

CASE TITLE: UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA

CASE CATEGORY: EMPLOYEE INTEGRITY **CASE AGENT:** [REDACTED]

JOINT AGENCIES: NONE

OFFICE: ATLANTA FIELD OFFICE

JURISDICTION: NORTHERN DISTRICT OF GEORGIA

SECTION A - NARRATIVE

Introduction:

On January 28, 2015, the EPA-OIG Atlanta Field Office received an allegation that an undetermined quantity of files were missing from an unsecured mixed-use file room located within secured EPA office space on the 12th floor of the Sam Nunn Atlanta Federal Center, Atlanta, GA. The missing files, identified as Inspection/Enforcement file records, belonged to the Lead and Asbestos Section, Chemical Safety and Enforcement Branch, Air, Pesticides, & Toxic Substances Management Division (APTSMD). The records were utilized to process air quality violations within the EPA Region 4 area of responsibility. Initially, it was reported that the missing files numbered in the hundreds and may have contained sensitive Personally Identifying Information (PII).

EPA-OIG initiated this investigation based on the possibility of violations of 18 U.S.C. §2071 (Concealment, removal, mutilation of government records).

Authorities:

- 18 U.S. Code. §2071 – Concealment, removal, or mutilation generally
- EPA Policy 2155.3 – Records Management Policy
“...1. All EPA employees are responsible for: ...2. Destroying records only in accordance with approved records schedules and never removing records from EPA without authorization.”
- EPA Records Schedule 207 – Enforcement Action Files
“...Item a: Administrative case files, whether a formal enforcement action is initiated or not...Destroy 10 years after file closure...”
- EPA Order 3120.1 Conduct and Discipline, Appendix, Table Offenses and Penalties
17. Loss or damage to Government property, records, or information.
“Penalty depends on value of property or extent of damage, and degree of fault attributable to the employee.”

22. Negligent performance of duties
 - “a. Where damage or waste to Government property is insubstantial.”
44. Willful concealment, removal, mutilation or destruction of a public record.

Synopsis

Evidence obtained during the EPA-OIG investigation established that 93 inspection/enforcement files were missing from the Lead and Asbestos Section, Chemical Safety and Enforcement Branch, Air, Pesticides, & Toxic Substances Management Division (APTSMD). The missing files related to Lead Based Paint inspections conducted between August 10, 2004 and September 22, 2014. While the missing files contained information such as full names and addresses, there was no indication that any sensitive PII (i.e. date of birth, Social Security number, financial or medical information) was comprised.

No evidence was obtained indicating theft, or the intentional destruction or removal of inspection/enforcement files from the Lead and Asbestos Section. However, evidence collected identified a lack of internal control as a significant contributing factor in the Section’s failure to account for their files. Testimony provided to EPA-OIG established that supervisors/managers in the Chemical Safety and Enforcement Branch were aware that a large number of files within the Lead Based Paint and Asbestos Section were unaccounted for since January 2014. However, no significant effort was undertaken to locate the missing files, or institute procedures to protect the remaining files, until it was determined that the Section/Branch would not meet its enforcement “commitments” for the FY2014.

During the course of this investigation, evidence was obtained linking [REDACTED] [REDACTED] Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA, to the improper disposal of official EPA records. Six of the records disposed of by [REDACTED] were connected with the missing inspection/enforcement files.

Details

Allegation 1: Person(s) unknown removed, without authority, a large quantity of files under the control of the Lead and Asbestos Section, Chemical Safety and Enforcement Branch, APTSMD, EPA Region 4, Atlanta, GA.

Allegation 1 Findings: Evidence obtained during this investigation failed to support the conclusion that files from the Lead and Asbestos Section were stolen, or deliberately destroyed or removed with intent to conceal. However, evidence obtained supported a conclusion that a lack of internal controls was a significant contributing factor in the Section’s failure to account for their files. Further, testimony provided to EPA-OIG established that supervisors/managers within the Section and Chemical Safety and Enforcement Branch were aware that files were unaccounted for since January 2014, but made no substantial effort to locate the missing files or institute procedures to protect the remaining files until after it was determined that enforcement goals for the year would not be met.
Allegation unsupported.

Investigative Results

Receipt of Allegation

On January 28, 2015, [REDACTED] EPA Region 4, contacted the EPA-OIG regarding the possible theft of files from the Lead Based Paint and Asbestos Section, Chemical Safety and Enforcement Branch, APTSMD, EPA Region 4, Atlanta, GA. [REDACTED] reported the following:

On January 27, 2015, [REDACTED] Chemical Safety and Enforcement Branch, APTSMD reported to [REDACTED] that a large number of files (as many as 500) were missing from the Lead Based Paint and Asbestos Section. According to [REDACTED] [REDACTED] reported that the files were removed from the 12th floor APTSMD file room between 05/01/2014 and 08/31/2014. The missing files were identified as Enforcement file records utilized to process air quality violations within the EPA Region 4. Therefore, the files were believed to contain personally identifiable information (PII) for the responsible parties cited in the violations. The exact number of files missing was unknown. [REDACTED] notified APTSMD managers of the missing files in September 2014 after [REDACTED] was questioned about the Branch's failure meet its yearly goal of enforcement actions. [REDACTED] cited the missing files as the reason for this failure. [REDACTED] reported to [REDACTED] that maybe [REDACTED] should have made [REDACTED] managers better aware of the seriousness of the situation. (Exhibits 1-2, 4)

Lead Based Paint and Asbestos Section Chain of Command (2011-present)

EPA-OIG conducted interviews of current and former Lead Paint and Asbestos Section staff. Information obtained during these interviews identified [REDACTED] the Lead Based Paint and Asbestos Section. [REDACTED]

(Exhibit 4, 5, 7, 12-14)

Timeline of Missing Files

The APTSMD file room from which the files were missing was located on the 12th floor of the Sam Nunn Atlanta Federal Center (SNAFC). While access badges restricted entry to the 12th floor EPA work spaces, the file room itself was an unsecured multi-purposed area. This area was utilized to store files from various Sections within APTSMD. Only the Lead Based Paint and Asbestos Section reported an inability to locate a large portion of its files. (Exhibits 1-4)

Information obtained during EPA-OIG interviews contradicted the original report that the Lead Based Paint and Asbestos Section files were removed between 05/01/2014 and 08/31/2014. Staff reported difficulties, or inability, in locating the Section's files as far back as 2012/2013. Two staff members reported having conversations with [REDACTED] related to missing files prior to January 2014. It was reported that the order in which the files were maintained was changed on two occasions. At least one change (e.g. from archive date to chronological) was

made as a direct result of the inability to locate specific files. The Section also switched to utilizing green folders for their files to differentiate them from the other Sections files stored in the area. (Exhibits 5, 7, 12-13)

It is estimated that up to 500 Lead Based Paint and Asbestos Section files should have been stockpiled in the APTSMD 12th floor file room. [REDACTED] reported that as early as January 2014, [REDACTED] noticed that a large portion of [REDACTED] Section's files were missing from their assigned space. [REDACTED] assumed staff had removed the files and were holding them in their workspaces. "Other priorities" existed, so no attempt was made to locate any files. A short time later, [REDACTED] ([REDACTED]), [REDACTED] recognized that [REDACTED] section was not on pace to meet its number of assigned "commitments" for FY 2014. When [REDACTED] went to retrieve files [REDACTED] for case development, [REDACTED] only located a small number (approximately 30) of the Section's files in the file room. [REDACTED] reported the problem [REDACTED]. Based on testimony from [REDACTED] it appeared that only a cursory effort was made to locate the missing files. It was not until September/October 2014, when questioned by APTSMD managers about the Branch's failure to meet its assigned enforcement goals, or "commitments", for FY2014 that [REDACTED] notified them (the managers) of the situation involving the missing files. The situation was not reported to other authorities until January 2015. (Exhibits 1, 4, 5, 7, 12-13)

Lack of Internal Controls

Testimony obtained by EPA-OIG during this investigation established that all Lead Based Paint and Asbestos Section files were created from the results of inspections completed by the Section. The Section performed approximately 100 inspections per year and each inspection resulted in the creation of a separate file. Each file was recorded in the Section's database or spreadsheet, and assigned a number. The file was then placed into the Section's file room to await review by a Case Development Officer (CDO). [REDACTED] (b) (5), (b) (6), (b) (7)(C)

[REDACTED] Exhibits 4-5, 13-14)

The settlement of an enforcement action, which resulted in the closing of a file/case, was identified as a "commitment." The Lead Based Paint and Asbestos Section was generally assigned a yearly goal ranging from 25 to 30 "commitments." Since this amounted to only a fraction of the total number of inspections conducted each year, the files maintained by this Section accumulated to as many as 500 and spanned several years. There was a 5 years statute of limitations on regulatory violations, so any files over 5 years old were closed without action whether or not a violation was identified. (Exhibits 4-5, 13-14)

Interviewees reported that the Lead Based Paint and Asbestos Section inspections were conducted primarily by [REDACTED] employees. Permanent status EPA personnel were required to perform a minimum of approximately 6 inspections per year to maintain their certification; therefore, most of the permanent staff performed this minimum requirement. The Section's permanent full time staff was assigned the primary responsibility of case development and enforcement action. However, starting late 2011/early 2012, [REDACTED] the case development responsibilities to

employees, staff focused primarily on grants management. At least one staff member reported (b) (5), (b) (6), (b) (7)(C) during conferences involving the negotiations of financial penalties/settlements with responsible parties. Once a financial settlement was reached, the permanent staff member would complete the final order (identified as a Consent Agreement and Final Order or CAFO) (b) (5), (b) (6), (b) (7)(C). (Exhibits 7, 11, 14)

During EPA-OIG interview, staff reported that little direction was received from supervisors/managers concerning the performance of inspections or case development. "Every once in a while" would direct inspectors to target a specific area or city, but these instances were the exception, not the rule. At no time were Section staff, assigned specific files to review/develop. When a staff member needed work, they went to the file room and selected a file. There was no procedure or policy dictating which files received priority; for example, requiring the review of older files which may be approaching the statute limitations before more recent files. This practice led to many violations identified during inspections going unpursued for years or in some cases enforcement action(s) could not be pursued because the statute of limitations for the violation(s) had expired. (Exhibits 5, 7, 11, 14)

Interviewees reported that with the exception of a period of time around 2012, there was no mechanism in place to track the Section's files or assignments. A file sign-out was attached to the filing cabinet, but one staffer reported that this tracking system "fell apart" because Section employees had free access to the file area and routinely removed files without completing the sign in sheet. and the sign-out sheet tracking method was again employed. (Exhibits 11-14)

When questioned by EPA-OIG on the subject of the lack of controls related to file tracking and staff assignments, reported "the system worked fine" when all the Section's employees "got along." However, there was now a lot of tension within the Section. According to a contributing factor to this tension was the (b) (5), (b) (6), (b) (7)(C). (Exhibits 7, 11, 14)

Additional Information

All parties interviewed by EPA-OIG agreed that the missing files possessed no real value to anyone outside the Section because they (files) should not have contained any sensitive PII. The majority of the staff opined that (b) (5) Evidence supporting this opinion was presented by testimony obtained from Between January and May 2015, made substantial efforts to locate the missing files. located the majority of the missing files within the Section staff's workspaces. Based on efforts, reduced the number of missing files from as many as 500 to 93. After the missing files were identified, it was

confirmed that none contained any sensitive PII, i.e. date of birth, SSN, financial information etc. (Exhibits 4-7, 11-12, 14)

While deliberate destruction/removal of the files was not suspected by the employees interviewed, two employees opined (b) (5), (b) (6), (b) (7)(C)

Both employees allege (b) (5), (b) (6), (b) (7)(C)

.” The

following examples were provided by these employees:

- (b) (5), (b) (6), (b) (7)(C)

- (b) (5), (b) (6), (b) (7)(C)

and

- (b) (5), (b) (6), (b) (7)(C)

(Exhibits 7, 14)

Both employees provided EPA-OIG with file information which they reported supported the allegations listed above. Records turned over to EPA-OIG indicated one instance in which the inspector, identified as [REDACTED] identified possible regulatory violations, but noted that the violations would not be pursued. None of the file names provided by either staffer was included on the Section’s list of missing files. One employee indicated that [REDACTED] had brought [REDACTED] and [REDACTED] action to the attention of senior APTSMD managers, but no action was taken. (Exhibits 7, 14, 16)

Allegation 2: [REDACTED] Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA, improperly disposed of official government records.

Allegation 2 Findings: Evidence obtained during this investigation supported the conclusion that [REDACTED] failed to comply with EPA record management policies associated with the maintenance and disposition of official EPA records. *Allegation supported.*

Investigative Results:

Documents Associated with Missing Inspection/Enforcement Files Turned Over to EPA-OIG

Testimony gathered during the EPA-OIG interview of Lead Based Paint and Asbestos Section staff revealed that on May [REDACTED] 2015, following [REDACTED] EPA-OIG interview regarding the missing APTSMD files, [REDACTED] was observed dumping a large quantity of documents/papers into the 12th floor recycle bin. While numerous employees assigned to the 12th floor were in the process of relocating workspace and utilizing the move as a chance to dispose of unneeded documents, [REDACTED] actions were notable because [REDACTED] was

disposing of a much larger quantity of documents than other EPA staff. A staff member walked by the recycle bin after [REDACTED] action and observed documents that appeared to be forms utilized to record "investigation results and stuff." Other documents appeared possibly financial in nature (similar to a Dunn-Bradstreet report). This concerned the staff member who reported [REDACTED] observations to [REDACTED]. (Exhibit 8, 9)

Based on this information, [REDACTED] examined the recycle bin. [REDACTED] reported that the recycle bin was almost completely full of various papers. The top layer of documents appeared to be permits issued by local authorities. These were not items typically collected or maintained in EPA files. However, [REDACTED] recalled that [REDACTED]. None of the documents were disturbed or removed from the recycle bin at that time. That evening, while reflecting on what [REDACTED] had observed in the recycle bin, [REDACTED] thought it seemed "strange" that the permit reports were spread evenly over the top of the recycle bin, instead of being lumped together like would occur if just dumped into the bin. Upon arriving at work the next morning (May [REDACTED]th), [REDACTED] immediately went to the recycle bin and moved some of the top lying documents (local permits) in an effort to view what lay just underneath. Upon moving the permits, [REDACTED] observed numerous documents on official EPA letterhead. [REDACTED] "grabbed a handful" of the documents and took them back to [REDACTED] desk for review. Once [REDACTED] identified the original inspection reports within the documents seized, [REDACTED] immediately contacted EPA-OIG. (Exhibit 9)

Turned over to EPA-OIG were photocopies of official correspondence between EPA Region 4 and individuals/entities subject to APTSMD inspections and/or enforcement actions. Comingled with these letterhead documents were two original copies of Lead Based Paint inspection reports, dated [REDACTED]/2010 and [REDACTED]/2011. When checked, the subjects identified on the inspection reports matched the titles of two of the missing APTSMD files. (Exhibits 9-11)

Recovery of Additional Documents Associated with Missing Inspection/Enforcement Files

On May 20, 2015, the recycle bin, along with its contents, was seized by EPA-OIG. During a search of the recycle bin, the following documents were located:

- Five (5) Section 1018 File Review Summary sheets related to inspections conducted at apartments located [REDACTED]. These summary sheets were related to one of the inspection reports previously turned over to EPA-OIG and associated with one of the missing inspection/enforcement files; and
- Ninety-three (93) copies of official EPA correspondence, eight (8) of which were associated with a reported missing file. These documents were identified as:
 - Notices of Violation and Opportunity to Show Cause; three (3) of these memoranda were associated with missing files;
 - CAFO; one (1) related to a missing file;
 - Ability to Pay; three (3) were associated with missing files;
 - Notice of Non-Compliance; this memorandum was associated with a missing file;and

- o Various other documents (e.g. emails, handwritten notations, etc...) were comingled with the records cited above. These documents were linked to [REDACTED] and [REDACTED], Lead and Asbestos Section, Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA. (Exhibit 10)

(Agent's Note: The official memoranda associated with missing inspection/enforcement files described above were located in the top layer of discarded documents within the recycle bin.)

When presented with the documents, [REDACTED] identified all but four (4) of the recovered records associated with missing APTSMD files as official EPA records. As such, these records should have been maintained in accordance with EPA record management policies. In addition, [REDACTED] and other staff members expressed concern with the method in which the copies of the other recovered records were being disposed. (Exhibits 8, 9, 11)

EPA-OIG Interviews of [REDACTED]

[REDACTED] was interviewed by EPA-OIG on two occasions. The initial EPA-OIG interview was conducted prior to the recovery of records associated with the missing files. After the recovery of records, a second interview of [REDACTED] was conducted.

[REDACTED] reported that [REDACTED]

(Exhibit 12)

At the time [REDACTED], there was no central management for the files maintained by the Lead Based Paint and Asbestos Section. Nor was any employee assigned the duty of tracking the location and status of the Section's files. The only tracking mechanism implemented was a check out sheet taped to the file cabinet. Under this system, employees were expected to report on the checkout sheet anytime a file was removed/returned to the file room. This tracking system "fell apart" because employees had free access to the file area and removed files at will, without completing the sign in sheet. (Exhibit 12)

Usually, the files utilized by the Lead and Asbestos Section were created by the Section's administrative assistant (AA). The Section's files were generated upon submission of an inspection report. [REDACTED]

[REDACTED] did not contact the CDO associated with the file because [REDACTED] did not want them (CDO) to think that [REDACTED] was telling them (CDO) what to do. On several occasions, [REDACTED] notified [REDACTED] of [REDACTED] inability to locate

specific files. Upon one such report, [REDACTED] informed [REDACTED] [REDACTED] would do a “file call” in an effort to locate the missing files. However, [REDACTED] never conducted the file call. [REDACTED] never provided [REDACTED] with any direction related to locating the missing files or rectifying the problem. (Exhibits 12, 13)

After [REDACTED], [REDACTED] related to the tracking/maintaining of enforcement files. Over time, [REDACTED] forgot about the records [REDACTED] had placed on [REDACTED] desk, and these records got covered, and intermingled, with other unrelated documents on [REDACTED] desk. (Exhibits 12, 13)

[REDACTED] the decision was made to return to the practice of individual staff tracking their own files. [REDACTED] was unaware of any centralized tracking of [REDACTED] Section’s files since [REDACTED] (Exhibits 12, 13)

When [REDACTED] reorganized the files by archive date. Therefore, files from multiple years were intertwined. This created confusion in locating files within the Section. Subsequently, [REDACTED] reorganize files in an effort to make them easier to find. (Exhibits 12, 13)

Following the recovery of the records related to the missing files, [REDACTED] was again interviewed by EPA-OIG. [REDACTED] was provided with copies of the records recovered by EPA-OIG. Initially, [REDACTED] questioned how the recovered records could be linked to [REDACTED] [REDACTED] confirmed that following [REDACTED] initial interview with EPA-OIG, [REDACTED] dumped a large quantity of documents into the recycle bin located in the 12th floor file room. [REDACTED] justified the action by reporting that [REDACTED] was in the process of moving workspaces and the documents were disposed of in a house cleaning effort prior to moving into the new workspace. After reviewing the records presented, [REDACTED] identified handwritten notations on them as belonging to [REDACTED] In addition, [REDACTED] identified several of the documents comingled with the above records, e.g. email correspondence, as belonging to [REDACTED] (Exhibit 13)

[REDACTED] then challenged the materiality of the recovered documents. [REDACTED] identified all the recovered documents as copies and unimportant to the files. When [REDACTED] response was challenged, [REDACTED] conceded that at least three sets of the recovered documents were original copies. However, [REDACTED] maintained that none of the original documents were important. Eventually, [REDACTED] acknowledged that the inspection reports were the basis for all enforcement actions and that the original records recovered should have been part of the official agency file. (Exhibit 13)

[REDACTED] admitted that the records recovered by EPA-OIG may have been comingled with other records on [REDACTED] desk and [REDACTED] threw them away when [REDACTED] discarded other records from [REDACTED] workspace. [REDACTED] denied that [REDACTED] intentionally destroyed any of the missing enforcement files. Because of the length of time from when [REDACTED] would had obtained the documents to when [REDACTED] disposed of them, [REDACTED] had “forgotten” that [REDACTED] was in possession of the records in question. [REDACTED] asserted that, therefore, the destruction of any official agency record was unintentional. (Exhibit 13)

Records Management Training for [REDACTED]

EPA Region 4 training records documented that [REDACTED] successfully completed the mandated records management training on two occasions: August 2013 and January 2016. Prior to 2013, records training was not required for EPA employees, with the exception of training related to the handling of confidential business information (CBI). However, new staff received records training, as well as instruction with regards to their roles and responsibilities as they relate to records management, at their new employee orientation training. (Exhibit 15)

EPA-OIG Interview of [REDACTED]

[REDACTED]
(Exhibit 14)

In the role of [REDACTED] was assigned inspection duties for [REDACTED] states: [REDACTED]
[REDACTED] Upon returning from inspections, [REDACTED] created a separate file for each inspection. The file consisted of the inspection report and applicable checklists. The inspection files were entered into the Section's database in which a case/tracking number was assigned to the file. Up until the end of 2012/beginning 2013, the information was entered into the database by the inspector. Later, that responsibility was given to [REDACTED]
[REDACTED] (Exhibit 14)

There was a period of time ([REDACTED]) [REDACTED]
[REDACTED] Chemical Safety and Enforcement Branch. [REDACTED] was uncertain as to why [REDACTED] these responsibilities. All inspection/enforcement files were stored in an unsecured designated file area on the 12th floor. All personnel had access to this area. [REDACTED] was not aware of the issue involving missing files until May 2015. (Exhibit 14)

[REDACTED] acknowledged that [REDACTED] had recently relocated to a new workspace. While moving, [REDACTED] took the opportunity to get rid of unneeded documents (e.g. emails, notes, memoranda, etc...) that had accumulated within [REDACTED] former workspace. Any memoranda discarded by [REDACTED] were duplicate copies. Prior to discarding [REDACTED] copy of a document, [REDACTED] checked the applicable case file to ensure that a copy of the record was present. [REDACTED] discarded these documents in the recycle bin located within the 12th floor file room. [REDACTED] reported that [REDACTED] had placed [REDACTED] documents in the 12th floor recycle bin approximately one month prior to EPA-OIG's recovery of documents. (Exhibit 14)

[REDACTED] was aware that a large number of files had been reported as missing from [REDACTED] Section and that EPA-OIG had recovered some of the missing records associated with these files. [REDACTED] was presented with copies of the documents recovered by EPA-OIG. [REDACTED] denied disposing of any of the documents. (Exhibit 14)

Disposition

On July 8, 2015, this investigation was presented to the U.S. Attorney's Office for the Northern District of Georgia. After reviewing the allegation and results of this investigation, the U.S. Attorney's Office declined prosecution of 18 U.S.C. §2071 related to the concealment, removal, or mutilation of official government records.

This Report of Investigation is being issued to Air, Pesticides and Toxics [REDACTED]
[REDACTED], for administrative actions deemed appropriate.

SECTION B – ENTITIES AND INDIVIDUALS

Name: [REDACTED]
Title & Company: [REDACTED], EPA Region 4
Role: Subject
Business Address: 61 Forsyth Street SW, Atlanta, GA 30303
Business Phone: (404) [REDACTED]
EPA Employee: Yes

Name: [REDACTED]
Title & Company: [REDACTED], Chemical Safety and Enforcement Branch, APTSMD
Role: Other
Business Address: 61 Forsyth Street SW, Atlanta, GA 30303
Business Phone: (404) [REDACTED]
EPA Employee: Yes

Name: [REDACTED]
Title & Company: [REDACTED], Lead Based Paint and Asbestos Section, APTSMD
Role: Other
Business Address: 61 Forsyth Street SW, Atlanta, GA 30303
Business Phone: (404) [REDACTED]
EPA Employee: Yes

SECTION C – PROSECUTIVE STATUS

The allegation and facts of this investigation were presented to Alana Black, Assistant U.S. Attorney, Northern District of Georgia. After hearing the facts and the allegation, Black declined prosecution of [REDACTED] for the concealment, removal or mutilation of U.S. Government records, a violation of 18 U.S.C. 2071. (b) (5) [REDACTED] was cited as the reason for declination. (Exhibit 17)

EXHIBITS

<u>DESCRIPTION</u>	<u>EXHIBIT #</u>
MOA – Receipt of Complaint	1
Case Initiation	2
Photographs of APTSMD 12 th Floor File Room	3
MOI – [REDACTED]	4
M [REDACTED]	5
M [REDACTED]	6
M [REDACTED]	7
M [REDACTED]	8
M [REDACTED]	9
MOA – Recovery of Records Related to Missing Files	10
M [REDACTED]	11
MOI – [REDACTED]	12
MOI – [REDACTED] (Subject Interview)	13
[REDACTED]	14
MOI – [REDACTED]	15
MOA – Review of APTSMD Records Provided by [REDACTED]	16
SIR – Declination of Criminal Prosecution	17



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303**

MEMORANDUM OF INTERVIEW

Interview Date:	January 20, 2016
Case Name:	UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA
Case Number:	OI-AT-2015-CAC-0031
Interviewee:	[REDACTED] FOIA & Records Management Section, Office of Policy and Management, EPA Region 4, Atlanta, GA
Interview Location:	Telephonic
Interviewed By:	[REDACTED] Special Agent
Witnesses:	

On January 20, 2015, SA [REDACTED] interviewed [REDACTED] [REDACTED] FOIA & Records Management Section, Office of Policy and Management (OPM), EPA Region 4, Atlanta, GA, regarding Records Management training offered to EPA Region 4 employees. [REDACTED] provided the following information:

Prior to 2013, Records Management training was available to all Region 4 employees, on-line and through OPM. The online records training focused on “how to save a record” by using ECMS (what is now known as EZ Email). At new employee orientation, staff received records training, as well as instruction with regards to their roles and responsibilities as they relate to records management. However, formalized records training was not required for any employee prior to 2013, outside of training related to the handling of confidential business information (CBI).

In 2013, EPA mandated periodic Records Management training for all EPA employees. This required training is administered on-line biannually. EPA Region 4 training records documented that [REDACTED], Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA, successfully completed the mandated training on two occasions: August 2013 (for 2013 Annual Records Management On-line Training) and January 2016 (for 2015 Records Management On-line Training).



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CASE #: OI-AT-2015-CAC-0031

CROSS REFERENCE #:

TITLE: UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA

PREPARED BY: [REDACTED]

MEMORANDUM OF ACTIVITY

Review of APTSMD Records Provided by [REDACTED]

On November 25, 2015, SA [REDACTED] was contacted by [REDACTED] [REDACTED] Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA regarding the OIG investigation of missing inspection/enforcement files from the Air, Pesticides and Toxic Substance Management Division (APTSMD), EPA Region 4, Atlanta, GA. [REDACTED] reported that [REDACTED] had additional information related to [REDACTED] supposition that person(s) within the Lead Based Paint Section, [REDACTED] destroyed or removed enforcement files in an effort to conceal evidence related to their failure to properly execute their duties. Specifically, issuing letters reporting of no violations for Lead Based Paint inspections in which violations were clearly identified. Subsequent to this contact, [REDACTED] forwarded SA [REDACTED] copies of five (5) Lead Based Paint inspection/enforcement files, attachments 1-5.

Upon review, SA [REDACTED] identified the files as the same as those previously forwarded to the OIG by [REDACTED]. In each instance, the enforcement file was closed out with a letter stating that no violations; however, SA [REDACTED] was unable to locate evidence of a clearly documented violation by the inspector among the records provided by [REDACTED]. Further, none of the files provided by [REDACTED] were included in the list of missing files provided by the Lead Based Paint Section.

Attachments:

1. Lead Based Paint Inspection/Enforcement for [REDACTED]



Info - [REDACTED]

2. Lead Based Paint Inspection/Enforcement for [REDACTED]



Info - [REDACTED]

3. Lead Based Paint Inspection/Enforcement for [REDACTED]



[REDACTED] Info -
Inc.pdf

4. Lead Based Paint Inspection/Enforcement for [REDACTED] Contractors



[REDACTED] Info - [REDACTED]
Contractors.pdf

5. Lead Based Paint Inspection/Enforcement for [REDACTED] General Contracting



[REDACTED] Info - [REDACTED]
General Contracting



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303**

MEMORANDUM OF INTERVIEW

Interview Date:	September 14 & 16, 2015
Case Name:	UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA
Case Number:	OI-AT-2015-CAC-0031
Interviewee:	[REDACTED] Lead and Asbestos Section, Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA
Interview Location:	EPA OIG 61 Forsyth Street, 12 th Floor Atlanta, GA
Interviewed By:	[REDACTED], Special Agent
Witnesses:	Special Agent [REDACTED]

On September 14 & 16, 2015, SA's [REDACTED] interviewed [REDACTED] [REDACTED] Lead and Asbestos Section, Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA regarding the possible theft of enforcement files from the Air, Pesticides and Toxic Substance Management Division (APTSM), EPA Region 4, Atlanta, GA. After proper identification was shown and [REDACTED] was advised about the nature of the interview. [REDACTED] provided the following information:

[REDACTED] EPA Region 4's
Lead and Asbestos Section.
[REDACTED]

[REDACTED]

[REDACTED] supervisor for [REDACTED] was identified as [REDACTED]. Prior to [REDACTED] supervisor was [REDACTED]. Currently, [REDACTED] [REDACTED] The Lead and Asbestos Section [REDACTED]

█ was assigned inspection duties for █ states: █. Generally, █ was not assigned specific locations to inspect; however, "every once in a while" █ selected an area/city to target. As long as the goal for the number of inspections to be conducted was reached, █ received very little guidance or input from █ supervisors. █

Two types of Lead Based Paint Inspections were conducted. The first was identified as a "1018" inspection. This type of inspection related to notification by the property owners to the tenants of possible lead based paint within the premises. This type of inspection primarily involved apartments or rental properties. 1018 inspections were the primary inspections conducted by █ Section from █

The second type of inspection was identified as a "402." This type of inspection primarily involved renovated properties, residences and apartments. 402 inspections were the primary inspections conducted by █ Section from █, the Region conducted both types of inspections.

Upon return from inspections, █ created a separate file for each inspection. The file consisted on the inspection report and applicable checklists. The inspection files were entered into the Section's ICIS database where a case/tracking number was assigned. Up until the end of █ the information was entered in ICIS by █. Later, that responsibility was given to █.

Once the file was completed, it was given to █. The files was listed in numerical order and stored in an unsecured designated file area on the 12th floor. All personnel had access to this area.

The Section's supervisor(s)/manager(s) did not assign cases/inspections to FTE's. When an employee needed work, they went to the file room and select a file. There was no designated employee or control mechanism (e.g. log sheet) in place to track when files were removed or who was removing the file. This has led to many violations going unpursued/unresolved for years ("cases not being worked"). Specifically, █ was aware of regulatory violations identified in 2012 inspections that have yet been pursued.

█ inspection and clerical duties. █ parties subject to enforcement actions. █ the majority of the Section's enforcement work was conducted by █ conferences involving the negotiations of financial penalties. In these instances, the FTE's would frequently complete the CAFOs to make it appear that they had developed the case. █ cited █

█ was responsible for █ enforcement actions while the next highest number by another employee in █ Section was █ case development/CAFOs and the Section failed to meet its established goal (i.e.: quota) of █

enforcement actions. [REDACTED] of the 22 enforcement actions taken by the Section were the results of [REDACTED] efforts.

Even though the primary duties of the Section's full time employees (FTE) were supposed to be case development and enforcement actions, FTE's focused primarily on grants management. FTE's were required to perform a minimum of approximately 6 inspections per year to maintain their certification. Most of the FTE's, if not all, performed the minimum requirement. In contrast, [REDACTED] inspections per year. [REDACTED] approximately 123 inspections were accomplished.

[REDACTED] questioned the validity of the inspections [REDACTED] performed since the expiration of [REDACTED] credentials in [REDACTED]. Regulations required all inspectors present valid credentials to inspected parties at the time of inspection. [REDACTED] and [REDACTED] were aware of the expiration of [REDACTED] Section employee's credentials. [REDACTED] focused on obtaining new credentials for [REDACTED]

In lieu of properly credentialing [REDACTED] [REDACTED] issued them letters signed by [REDACTED], the Division's Director, as authorization to conduct inspections. [REDACTED] questioned the legality of this during a meeting of Section employees. [REDACTED] did not address [REDACTED] concerns. After the meeting, [REDACTED] was summoned to a "private meeting" with [REDACTED] [REDACTED] informed [REDACTED] that it was "OK" to utilize the letter in lieu of official credentials.

[REDACTED] conducted no inspections between [REDACTED], when [REDACTED] was provided with new credentials. These credentials were temporary and expired on [REDACTED] 2015. [REDACTED] had been informed that [REDACTED] new credentials had been received, but they had yet to issue them to [REDACTED]

After accepting the [REDACTED] was informed that [REDACTED] would be eligible for future [REDACTED] positions within [REDACTED] Section. [REDACTED] made substantial efforts to be the Section's most productive employee in order place [REDACTED] in a better position to receive [REDACTED] when the position opened. When the position opened, [REDACTED] was informed [REDACTED] could not apply for the position because [REDACTED] however, [REDACTED] was permitted to perform the same duties as [REDACTED].

Section employees routinely maintain files in their work areas. Also, there was a period of time [REDACTED] in which [REDACTED] During that period, [REDACTED] informed the Section's employees that "anytime [REDACTED] tells you to do something, it's the same as coming from me." [REDACTED] was uncertain as to why [REDACTED].

[REDACTED] was never contacted by any supervisor/manager regarding missing enforcement files. [REDACTED] was not aware of the missing enforcement files until May 2015. [REDACTED] was uncertain of who told [REDACTED] that files were missing from [REDACTED] Section.

[REDACTED] questioned whether the missing files were actually stolen. [REDACTED] opined that most of the missing files were either archived or stored in an employee's workspace.

[REDACTED] saw no value in anyone stealing the files. And while the Section had a lot of disgruntled employees, [REDACTED] did not think anyone would remove/destroy the files in an effort to embarrass management, specifically [REDACTED]

However, [REDACTED] opined that (b) (5), (b) (6), (b) (7)(C) [REDACTED] described various issues with the actions of [REDACTED]. For example, [REDACTED]

Finally, [REDACTED] was present when [REDACTED] with a responsible party. In this instance, the inspection report identified violations [REDACTED] opined that (b) (5), (b) (6), (b) (7)(C) [REDACTED]

(Agent's Note: In the above instance involving [REDACTED] identified the case title as [REDACTED]. A search of the missing files list failed to identify [REDACTED] or any similar name, as a missing file.)

[REDACTED] was shown copies of several documents previously recovered by the OIG: [REDACTED] identified the documents as:

- 2 original Inspection reports and worksheets [REDACTED] these inspections. Stated that they were conducted shortly after [REDACTED] EPA Region 4. These reports should have been part of original case file. [REDACTED] believed these cases had been resolved and cases were closed; (Agent's Note: [REDACTED])
- Three memos related to missing files ([REDACTED] were cases worked by [REDACTED] believed that each case was settled, closed, and possibly archived;
- Handwritten list entitled "Programmatic ID." [REDACTED] identified the handwriting as [REDACTED] and the list as inspections/cases in which [REDACTED] was involved; and
- Handwritten note detailing perceived issues/problems associated with the Lead and Asbestos Section. [REDACTED] handwriting on the document as [REDACTED], attachment 1.

[REDACTED] did not recall specifically disposing of any of the documents recovered by the OIG. As with various other individuals [REDACTED] recently moved to a new workspace. While moving, [REDACTED] took the opportunity to get rid of unneeded documents (e.g. emails, notes, memorandums, etc...) that had accumulated within [REDACTED] workspace. All documents were placed in the recycle bin within the 12th floor file room. Any memorandums would have been duplicates. [REDACTED] checked case files to ensure that copies of the memorandum were present in the case file before destroying [REDACTED] copies. Any destruction of an original file record by [REDACTED] was unintentional.

[REDACTED] was aware that the OIG had recovered some of the missing records. [REDACTED] believed the records were recovered on a Thursday and [REDACTED] learned of the event the following day. [REDACTED]

reported that [REDACTED] had placed [REDACTED] documents in the 12th floor recycle bin approximately one month prior to the OIG's recovery of documents.

(Agent's Note: EPA-OIG recovered the missing records on Wednesday, May 20, 2015).

Attachment:

1. Handwritten Note created by [REDACTED]



[REDACTED] handwritten
note.pdf



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303

MEMORANDUM OF INTERVIEW

Interview Date:	July 16, 2015
Case Name:	UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA
Case Number:	OI-AT-2015-CAC-0031
Interviewee:	[REDACTED] Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA
Interview Location:	EPA OIG 61 Forsyth Street, 12 th Floor Atlanta, GA
Interviewed By:	SA's [REDACTED]
Witnesses:	[REDACTED], AFGE Union Rep

On July 16, 2015, SA's [REDACTED] interviewed [REDACTED] [REDACTED] Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA regarding the allegation that [REDACTED] attempted to destroy official government records of the Air, Pesticides and Toxic Substance Management Division (APTSM), EPA Region 4, Atlanta, GA. [REDACTED] was accompanied to the interview by [REDACTED] the American Federation of Government Employees union. Proper identification was shown and [REDACTED] was advised about the nature of the interview. Prior to questioning, [REDACTED] read/was read the EPA-OIG "Administrative Warning: Duty to Cooperate" form, commonly referred to as a "Kalkines warning." [REDACTED] acknowledged [REDACTED] understood the "warning" and agreed to answer questions related to the allegation, attachment 1. [REDACTED] provided the following information:

[REDACTED] was presented with the following records previously recovered by EPA-OIG:

- Original copy of a Section 1018 Inspection Report for [REDACTED] [REDACTED] dated [REDACTED] 2015;
- Five (5) original Section 1018 file summary reports related to the inspection at [REDACTED] [REDACTED];
- Original copy of TSCA 402 Inspection Report for [REDACTED] [REDACTED] dated [REDACTED] /2011;
- Eight (8) copies of action related memoranda, each with an original handwritten notation identifying the EPA file/case number; and

- Notice of Violation memorandum, dated [REDACTED], related to the [REDACTED]/2009 Section 1018 inspection of [REDACTED]. The memorandum bore original signatures and handwritten notations.

Initially, [REDACTED] questioned how the recovered records could be linked to [REDACTED]. After reviewing the records presented, [REDACTED] identified handwritten notations on them as [REDACTED]. [REDACTED] also identified several of the documents, such as emails, comingled with the above records, e.g. email correspondence, as belonging to [REDACTED]. All documents recovered bearing these handwritten notations indicated that [REDACTED] had been unable to file the document because the file could not be located. [REDACTED] admitted that all the records recovered by EPA-OIG were possibly comingled with other records on [REDACTED] desk and [REDACTED] threw them away when [REDACTED] discarded other records from [REDACTED] workspace.

[REDACTED] confirmed that on [REDACTED] 2015, following [REDACTED] interview with EPA-OIG, [REDACTED] dumped a large quantity of documents into the recycle bin located in the 12th floor file room. [REDACTED] was in the process of moving workspaces and the documents were disposed of in a house cleaning effort prior to moving into the new workspace. [REDACTED] did not view any of the records recovered from the recycle bin by EPA-OIG as important.

Initially, [REDACTED] identified all the recovered documents as copies and unimportant to the files. When pointed out, [REDACTED] admitted that at least three sets of the recovered documents were original copies. [REDACTED] maintained that none of the original documents were important. Eventually, [REDACTED] conceded that the inspection reports were the basis for all enforcement actions and that the original records were part of the official agency file. [REDACTED] could not explain how [REDACTED] came into possession of the original inspection reports.

[REDACTED] denied that [REDACTED] intentionally destroyed any of the missing enforcement files. Because of the length of time from when [REDACTED] would have obtained the documents to when [REDACTED] disposed of them, [REDACTED] had “forgotten” that [REDACTED] was in possession of the records in question. [REDACTED] asserted that, therefore, the destruction of any official agency record was inadvertent.

Generally, files of the Lead and Asbestos Section, APTSMD, were created by [REDACTED]. [REDACTED] The Section’s files were generated upon submission of an inspection report.

[REDACTED]

[REDACTED] did not contact the case development officer (CDO) associated with the file because [REDACTED] did not want them (CDO) to think that [REDACTED] was telling them (CDO) what to do.

Over time, these documents just accumulated on [REDACTED] desk. [REDACTED] maintenance of the enforcement files, [REDACTED] denied any responsibility in seeing that the files were located and the records placed in them. [REDACTED]

[REDACTED]. Over time, [REDACTED] forgot about the records [REDACTED] had placed on [REDACTED] desk. The records got covered, and intermingled, with other unrelated documents

On several occasions, [REDACTED] reported [REDACTED] inability to locate many of the enforcement files to [REDACTED] reorganize files in an effort to make them easier to find. On one occasion, [REDACTED] a "file call" in an effort to locate the missing files. However, [REDACTED] never conducted the file call. [REDACTED] never provided [REDACTED] related to locating the missing files or rectifying the problem. After [REDACTED].

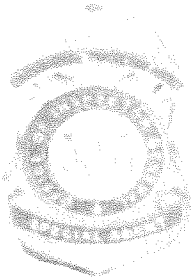
[REDACTED] recalled that [REDACTED], made a file call. [REDACTED] did not report that [REDACTED] had any records because [REDACTED] had forgotten [REDACTED] possessed any enforcement records.

Attachment:

1. Signed Administrative Warning: Duty to Cooperate form, dated 07/16/2015



kalkines.pdf



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303**

ADMINISTRATIVE WARNING: DUTY TO COOPERATE

1. You are going to be asked a number of specific questions concerning the performance of your official duties as an employee of the United States Environmental Protection Agency.
2. You have a duty to reply to these questions. Agency disciplinary proceedings, including your dismissal, may be initiated if you refuse to answer or fail to reply fully and truthfully.

Neither your answers nor any information or evidence which is gained by reason of your statements can be used against you in criminal proceedings; except that you may be subject to criminal prosecution for any false oral or written answers made by you during the course of this interview.

YOU ARE SUBJECT TO DISCIPLINARY ACTIONS UP TO AND INCLUDING DISMISSAL IF YOU REFUSE TO ANSWER OR FAIL TO RESPOND TRUTHFULLY AND FULLY TO ANY QUESTIONS, OR GIVE MISLEADING INFORMATION.

acknowledgement

I have read the above warning or had it read to me, and I understand my rights. I have been advised of the nature of the inquiry and I am willing to discuss the subject(s) presented to me. No promises, threats, or coercion of any kind have been made against me. I know and understand what I am doing.

7/16/15 10:04
Date Time



Print name



Investigator

07/16/2015 10:00 AM
Date Time



Witness

7/16/2015 10:05 AM
Date Time



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303**

CASE #: OI-AT-2015-CAC-0031

CROSS REFERENCE #:

**TITLE: UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES
AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA**

CASE AGENT: [REDACTED]

SIGNIFICANT INCIDENT REPORT

NARRATIVE:

On July 8, 2015, this investigation was presented to AUSA Alana Black, Northern District of Georgia, for prosecutorial consideration. Criminal prosecution of [REDACTED] [REDACTED] Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA, related to the concealment/destruction of US Government records (18 USC 2071) was declined (b) (5) [REDACTED] was cited as reason for the declination.

This matter will be referred to EPA Region 4 for administrative action.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303**

MEMORANDUM OF INTERVIEW

Interview Date:	May 22, 2015
Case Name:	UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA
Case Number:	OI-AT-2015-CAC-0031
Interviewee:	[REDACTED] Lead and Asbestos Section, Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA
Interview Location:	EPA 61 Forsyth Street, 12 th Floor Atlanta, GA
Interviewed By:	[REDACTED]
Witnesses:	

On May 22, 2015, SA's [REDACTED] conducted a follow-up interview of [REDACTED], Lead and Asbestos Section, Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA regarding the possible theft of Enforcement files from the Air, Pesticides and Toxic Substance Management Division (APTSMD), EPA Region 4, Atlanta, GA. After proper identification was shown and advised about the nature of the interview, [REDACTED] provided the following information:

Additional files located

[REDACTED] located three more of the files previously identified as missing. [REDACTED] agreed to provide an updated list of the missing files.

[REDACTED]

[REDACTED]

[REDACTED] employees utilized within the Section was reduced because of a decrease in inspections performed. The decrease occurred because the Section "switched" the focus of the

program inspections. Prior to 2012, the Section predominately conducted "1018" inspections, which relate to notifications required by property owners. In 2012, the Section began to focus more on inspections related to renovated and repaired properties.

Work Assignments within the Lead & Asbestos Section

As a general rule, with the exception of inspections, employees were not assigned specific cases on which to work. Even Inspectors were given latitude in what properties were selected for inspection. Some inspectors were not proactive and only inspected specific locations identified by EPA. Others would just be assigned a minimum number of locations (maybe 2) in an area. When the inspector got to that area, he conducted his own search for properties meeting the inspection criteria. [REDACTED] was identified as one of the latter.

In developing cases for enforcement action (ie. reviewing the inspection reports), no assignments are made. Section personnel would go to the file room and select whatever and how many inspection files they wanted. They "worked" those cases until they wanted/needed more, at which time they went back to the file room and selected additional files. Logs sheets affixed to the file cabinet were the only mechanism to track the files. All employees were expected to complete the log sheet when a file(s) were removed.

[REDACTED] reported that this system "worked fine" when all the Section's employees "got along." However, there was now a lot of tension within the Section. One contributing factor to this tension was [REDACTED] (b) (5), (b) (6), (b) (7)(C)

[REDACTED] Other employees were jealous of assignments/duties given to [REDACTED] felt empowered by [REDACTED] support and often "acted as if [REDACTED] was in charge" when interacting with [REDACTED] co-workers. This caused many of [REDACTED] co-workers to be resentful of [REDACTED]).

Identification of Agency Records

Several of the records previously recovered from the 12th floor file room recycle bin were presented to [REDACTED]

[REDACTED] identified the Section 1018 Inspection Report and Section 1018 File Review Summary sheets as official documents. As original documents, they should have been maintained in the official EPA file. [REDACTED] made the same statement with regards to the recovered TSCA 402 Inspection Report. [REDACTED] noted that even if follow-up or supplemental inspections were conducted at the locations identified on the reports, original copies of the initial inspection reports should have been maintained. All records described in this paragraph were subject to the EPA's document retention policy, attachments 1-3.

[REDACTED] identified the original Notice of Violation and Opportunity to Show Cause related to [REDACTED], as an official document to be maintained within the Agency's official file and subject to EPOA's document retention policy, attachment 4.

(Agent's Note: The file identified in the NOV was not identified as missing by [REDACTED])

With regards to the numerous copies of Determination of Inspection Result, Notice of Violation and Opportunity to Show Cause, Ability to Pay, and Consent Agreement and Final Order (CAFO) memoranda recovered, [REDACTED] opined that the photocopies were usually made as placeholders for the files until the original copies were returned. However, [REDACTED] believed that even though these documents may not be part of the official case file, placing them in the recycle bin was “probably not” the proper way to dispose of these documents. Shredding was the preferred disposal method.

[REDACTED] described the CAFO’s as an exception to the above rule. Original CAFO’s were routinely maintained in files within “legal.” The Enforcement files generally maintained a photocopy of the document after all signatures were applied. In this case, the photocopy was considered part of the official file.

Attachments:

1. Original EPA Region 4 Section 1018 Inspection Report for [REDACTED]



[REDACTED]
Inspection Report.p

2. Five original Section 1018 File Review Summary sheets for [REDACTED]



Section 1018 File
Review Summary.pd

3. Original EPA Region 4 TSCA 402 Inspection Report for [REDACTED]



[REDACTED]
Inspection Report.p

4. Original Notice of Violation and Opportunity to Show Cause Memo, dated [REDACTED]/2011



[REDACTED]
NOV.pdf



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303**

MEMORANDUM OF INTERVIEW

Interview Date:	May 26, 2015
Case Name:	UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA
Case Number:	OI-AT-2015-CAC-0031
Interviewee:	[REDACTED], Pesticides Section Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA
Interview Location:	EPA OIG 61 Forsyth Street, 12 th Floor Atlanta, GA
Interviewed By:	[REDACTED]
Witnesses:	

On May 26, 2015, SA [REDACTED] interviewed [REDACTED], Pesticides Section Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA, regarding the recovery of EPA documents from the 12th floor file room of the Air, Pesticides and Toxic Substance Management Division (APTSMD), EPA Region 4, Atlanta, GA. After proper identification was shown and [REDACTED] was advised about the nature of the interview. [REDACTED] provided the following information:

[REDACTED] has been employed [REDACTED] EPA Region 4 for approximately [REDACTED] years. [REDACTED] started out in the [REDACTED] now works.

[REDACTED] was familiar with [REDACTED], Lead and Asbestos Section, and frequently talks with [REDACTED]. In past conversations, [REDACTED] recounted to [REDACTED] concerns over business practices within [REDACTED] section, specifically records keeping.

Personnel assigned to APTSMD were being reassigned workspaces (cubicles) on the 12th floor; therefore, numerous employees were cleaning out their old workspaces and placing unneeded documents into the recycle bin located in the "12th floor walk way" utilized as the APTSMD file room. [REDACTED]

[REDACTED] larger quantity of documents than other EPA personnel. [REDACTED] observed some of the documents dumped by [REDACTED]. They appeared to be forms documenting "investigation results and stuff" with others appearing to be possibly financial in nature (similar to a Dunn-Bradstreet report). [REDACTED] was concerned because these were the type of documents routinely maintained within the Section's files. Because of [REDACTED] prior conversations with [REDACTED] observations to [REDACTED].

(Agent's Note: [REDACTED] could not recall the time period [REDACTED] dumping the documents.)

[REDACTED] went to the recycle bin [REDACTED] was uncertain if [REDACTED] was not present if/when [REDACTED] removed any documents from the recycle bin.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303**

MEMORANDUM OF INTERVIEW

Interview Date:	May 19, 2015
Case Name:	UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA
Case Number:	OI-AT-2015-CAC-0031
Interviewee:	[REDACTED], Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA
Interview Location:	EPA OIG 61 Forsyth Street, 12 th Floor Atlanta, GA
Interviewed By:	[REDACTED]
Witnesses:	

On May 19, 2015, SA [REDACTED] interviewed [REDACTED], [REDACTED] [REDACTED] Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA regarding the possible theft of enforcement files from the Air, Pesticides and Toxic Substance Management Division (APTSMD), EPA Region 4, Atlanta, GA. After proper identification was shown and [REDACTED] was advised about the nature of the interview. [REDACTED] provided the following information:

[REDACTED] there was no central management for the files maintained by the Lead Based Paint and Asbestos Section. The only tracking system implemented was a check out sheet taped to the file cabinet. Based on the honor system, employees were supposed to log on this sheet anytime a file was removed. This tracking system "fell apart" because employees had free access to the file area and removed files at will, without completing the sign in sheet. No employee was assigned the duties of tracking the location and status of files.

[REDACTED]

[REDACTED]

[REDACTED] A decision was made to revert back to the practice of individual staff tracking their own files. [REDACTED] was unaware of any centralized tracking of [REDACTED] Section's files since 2012.

[REDACTED] the files chronologically. [REDACTED] the files by archive date. Therefore, files from multiple years were intertwined.

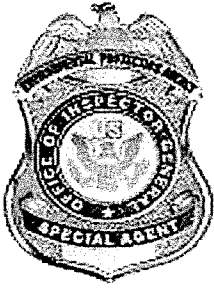
Organization of the stored files had been an issue for the Section for the last couple of years. At one point, [REDACTED] became upset because [REDACTED] couldn't find particular files. Eventually, [REDACTED] reorganize the files in chronological order.

For the last couple of years, no central tracking system has been utilized for the Section's files. When [REDACTED] attempted to address the "problem" with the Section's files with [REDACTED] also attempted to address the issue with [REDACTED] "wanted" to appoint someone to track/monitor the files, but [REDACTED] never followed through with this plan. None of [REDACTED] suggestions were acted on and no changes were made. Therefore, [REDACTED] "stayed out of it (file issues)."

[REDACTED] had noticed that the shelves for [REDACTED] Section's files in the file room were often mostly bare. "A couple of times", [REDACTED] received emails requesting staff to identify files in their possession. [REDACTED] provided responses to these emails to [REDACTED]

The Section's files were prepared and sent for archive by [REDACTED] reported that no identification/tracking performed for files transferred for archive. Therefore, [REDACTED] opined that most, if not all, of the missing files were probably archived and no one was aware of it. Any missing files not located in archive, could probably be found on a staff member's desk.

While no sensitive Personally Identifying Information (PII) should had been in the files, [REDACTED] seemed skeptical of the assertion that no PII was actually in the files. Some of [REDACTED] files contained property rental agreements which may had identified a person's social security number and/or date of birth. Also, if the case was in settlement negotiations, "availability to pay" (financial) information may had been in the file. The Section had no procedures in place authorizing the redaction of this type of information. Therefore, [REDACTED] was "unsure" if any PII was vulnerable.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303

MEMORANDUM OF INTERVIEW

Interview Date:	May 20, 2015
Case Name:	UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA
Case Number:	OI-AT-2015-CAC-0031
Interviewee:	[REDACTED], Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA
Interview Location:	EPA OIG 61 Forsyth Street, 12 th Floor Atlanta, GA
Interviewed By:	[REDACTED]
Witnesses:	

On May 20, 2015, SA [REDACTED] interviewed [REDACTED], Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA regarding the recovery of EPA documents from the 12th floor file room of the Air, Pesticides and Toxic Substance Management Division (APTSMD), EPA Region 4, Atlanta, GA. After proper identification was shown and [REDACTED] was advised about the nature of the interview. [REDACTED] provided the following information:

On May 19, 2015, at approximately 4:20 - 4:30pm, [REDACTED] [REDACTED] Lead and Asbestos Section, APTSMD, Atlanta, GA.

[REDACTED] step over to a designated break area a short distance away.

[REDACTED] had observed [REDACTED] [REDACTED] Lead and Asbestos Section, dumping "a whole bunch of stuff" and pointed in the direction of the recycle bin located in the 12th floor file room for APTSMD. [REDACTED] that the materials placed in the recycle bin didn't look like stuff that should be dumped, or something to that effect.

(Agent's Note: [REDACTED] was interviewed by SA [REDACTED] regarding the missing APTSMD files at approximately [REDACTED])

██████████ decided to examine the recycle bin. ██████████ did not assist ██████████ in examining or removing any items from it.

██████████ observed that the recycle bin was almost completely full of various papers. This was not unexpected because numerous employees were relocating within the 12th floor and were cleaning out their workspaces during the move. The top layer of documents appeared to be permits issued by local authorities. These are items not typically collected or maintained in EPA files. However, ██████████ recalled that ██████████ these reports, and provided them to inspectors prior to inspections. ██████████ viewed the practice of printing these reports, often dozens of pages, as wasteful. ██████████ did not disturb or remove any documents at that time. ██████████ was unfamiliar with the date that the recycle bin in the 12th floor file room was emptied.

That evening, ██████████ thought about the documents ██████████ observed in the recycle bin. ██████████ thought it seemed “strange” that the permit reports were spread evenly over the top of the recycle bin, instead of being lumped together like would occur if just dumped into the bin. ██████████ decided to go to work early the next day and examine the contents of the bin.

On May 20, 2015, at approximately 7:30 am, ██████████ arrived at work. ██████████ immediately went to the recycle bin. ██████████ moved some of the local permits in an effort to view what lay just underneath. Upon moving the permits, ██████████ observed numerous documents on official EPA letterhead. ██████████ “grabbed a handful” of the documents and took them back to ██████████ desk for review.

██████████ found the letterhead documents appeared to be photocopies of correspondence between EPA Region 4 and individuals/entities subject to EPA inspections and/or enforcement action. Original copies of these documents would be sent to respondents for signature. A photocopy of the correspondence would be maintained in the file while the original was out for signature. Once the signed originals were returned, the copy was removed from the file. ██████████ identified one of the documents recovered as a Consent Agreement and Final Order memo signed by ██████████ ██████████ opined that just placing the copies into a recycle bin was not the proper way to dispose of these documents.

Comingled with these documents were two Lead Based Paint inspection reports. Based on ██████████ experience, ██████████ knew that original inspection reports were to be maintained in the original EPA file. The reports were completed in black ink, but ██████████ suspected they were originals, not photocopies. ██████████ took the reports to ██████████ for examination.

██████████ pointed out to ██████████ that one of the inspection reports had blue ink notations written on it, indicating it was an original. ██████████ then noticed that both documents showed indentions on them indicating that the writing was physically place on the document, not photocopied.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303

CASE #: OI-AT-2015-CAC-0031

CROSS REFERENCE #:

TITLE: UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA

PREPARED [REDACTED]

MEMORANDUM OF ACTIVITY

Recovery of Records Associated to Missing Files

On May 20, 2015, SA [REDACTED] was contacted by [REDACTED] [REDACTED] Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA regarding the recovery of records associated with inspection/enforcement files from the Air, Pesticides and Toxic Substance Management Division (APTSMD), EPA Region 4, Atlanta, GA. [REDACTED] reported that some of the recovered records were original copies and should had been maintained in the original EPA file, attachment 1.

SA [REDACTED] met with [REDACTED] and took custody of the recovered records. [REDACTED] identified the recycle bin located within the APTSMD 12th floor room/area as the location from which the records were discovered.

Two of the records recovered by [REDACTED] were identified as original inspection reports from the Lead Based Paint section of APTSMD. SA [REDACTED] compared information from all the records provided by [REDACTED] to the list of reported missing files from APTSMD. This comparison identified the two original inspection reports as part of the missing APTSMD files. Another record, a handwritten list labeled "Programatic ID", contained the names of two additional missing files. Included in the documents provided by [REDACTED] were 22 Notices of Violations and 1 Consent Agreement and Final Order (CAFO) memorandum. All these documents appeared to be photocopies and none related to any of the missing files. Additional documents comingled with the previously described recovered records were linked to [REDACTED] and [REDACTED], attachment 2-4.

(Agent's Note: Based on information previously provided to the OIG, [REDACTED])

SA [REDACTED] photographed and retrieved the recycle bin from the 12th floor file room, attachment 5. A search of the contents of the recycle bin resulted in the recovery of the following documents:

- (5) Section 1018 File Review Summary sheets related to inspections conducted at apartments located at [REDACTED] attachment 6;

(Agent's Note: An internet query of this address identified the apartment complex as [REDACTED] [REDACTED] was identified as one of the missing files)

- Photocopies of official EPA correspondence (93) related to:
 - Opportunity for Settlement (1);
 - Notice of Violation and Opportunity to Show Cause (27); three of these memoranda related to missing files;
 - CAFO (26); one related to a missing file;
 - Ability to Pay (8); three related to missing files;
 - Determination of Inspection Results (30); these memoranda notified property owner that no violation were found during EPA inspection; and
 - Notice of Non-Compliance (1); this memorandum was related to a missing file, attachment 7.
- Documents (e.g. emails) comingled with the previously described recovered records were linked to [REDACTED]

Attachments:

1. Email from [REDACTED], date 05/20/2015



[REDACTED] email.pdf

2. Original EPA Region 4 Section 1018 Report, dated [REDACTED] 2010



[REDACTED] Report.p

3. Original EPA Region 4 Section 1018 Report, dated [REDACTED] /2011



[REDACTED] Report.p

4. Handwritten list labeled "Programatic ID", not dated



Programatic ID.pdf

5. Photograph of 12th Floor File Room Recycle Bin



Photo 12th floor
recycle bin.pdf

6. Section 1018 File Review Summary sheets



Section 1018 File
Review Summary.pdf

7. Recovered Enforcement Memos related to Missing files, dated [REDACTED] - [REDACTED]/2011



Recovered
Enforcement Memos

[REDACTED]

From: [REDACTED]
Sent: Wednesday, May 20, 2015 8:07 AM
To: [REDACTED]
Subject: Missing files follow up

[REDACTED] I just found an original inspection report in the paper dumpster. This should always be in the official inspection file. I think someone needs to go through the dumpster to see what else is there.

A coworker [REDACTED] dumped a lot of documents in the trash dumpster next to the lead enforcement files [REDACTED]). At first I thought it was just different permits from the [REDACTED] code/permit office, but underneath there were CAFO letter and other enforcement documents that should be in the official file or, if a duplicate, should be shredded. I certainly didn't take the time to go through everything, I just got a grab sample.

Hope you can have someone look through the dumpster before they take it away. [REDACTED]

[REDACTED]
US EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303
[REDACTED]

From: [REDACTED]
Sent: Thursday, April 09, 2015 12:31 PM
To: [REDACTED]
Subject: RE: Archived records for 2012, 2013, 2014 & 2015

[REDACTED] was not our Administrative Asst. but [REDACTED] for our Branch. [REDACTED] numbers as case developers or inspectors requested the next docket number for their case. [REDACTED] The docket number log book [REDACTED] went missing a few months after [REDACTED].

[REDACTED] was our [REDACTED]. It was in [REDACTED] office that I often saw boxes of files to be archived and where I later found one of my missing files in 3 archive boxes of files. These are the ones where I scanned in the list of files and 6 or 8 file contents. [REDACTED] log book for a while (previously it was kept on the shelves with the inspection files) but it went missing about 6 months ago (or longer) before [REDACTED] left.

When [REDACTED] often took the two log books and some people thought [REDACTED] was the last to have the log books.

[REDACTED] is also knowledgeable about tracking and log books for lead-based paint inspections. [REDACTED]

[REDACTED]
US EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

[REDACTED]

From: [REDACTED]
Sent: Thursday, April 09, 2015 11:53 AM
To: [REDACTED]
Subject: RE: Archived records for 2012, 2013, 2014 & 2015

[REDACTED]

I was going through my notes of our conversation the other week. Did you say that [REDACTED] was [REDACTED] in your section? [REDACTED]

Thank you,

[REDACTED]

From: [REDACTED]
Sent: Monday, April 06, 2015 11:20 AM
To: [REDACTED]
Subject: RE: Archived records for 2012, 2013, 2014 & 2015

o.k. Thanks.

[REDACTED]

US EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303
[REDACTED]

From: [REDACTED]
Sent: Monday, April 06, 2015 11:08 AM
To: [REDACTED]
Subject: RE: Archived records for 2012, 2013, 2014 & 2015

Thanks, but if this request is related to our interview the other day, you don't need to make it. I'll request any agency records that I need.

From: [REDACTED]
Sent: Monday, April 06, 2015 10:59 AM
To: [REDACTED]
Subject: FW: Archived records for 2012, 2013, 2014 & 2015

Just for FYI. [REDACTED]

[REDACTED]

US EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303
[REDACTED]

From: [REDACTED]
Sent: Monday, April 06, 2015 10:42 AM
To: [REDACTED]
Subject: RE: Archived records for 2012, 2013, 2014 & 2015

Good Morning [REDACTED]

While having our 9:00 am Staff Meeting this morning and we report what we are working on and I reported that I was working on your request. [REDACTED] get with you to see why you needed this information because it will be very time consuming. [REDACTED] will be in touch with you soon about your request and I will move forward after [REDACTED] speaks with you.

Thank you for your patience.

Have a great day.

[REDACTED]

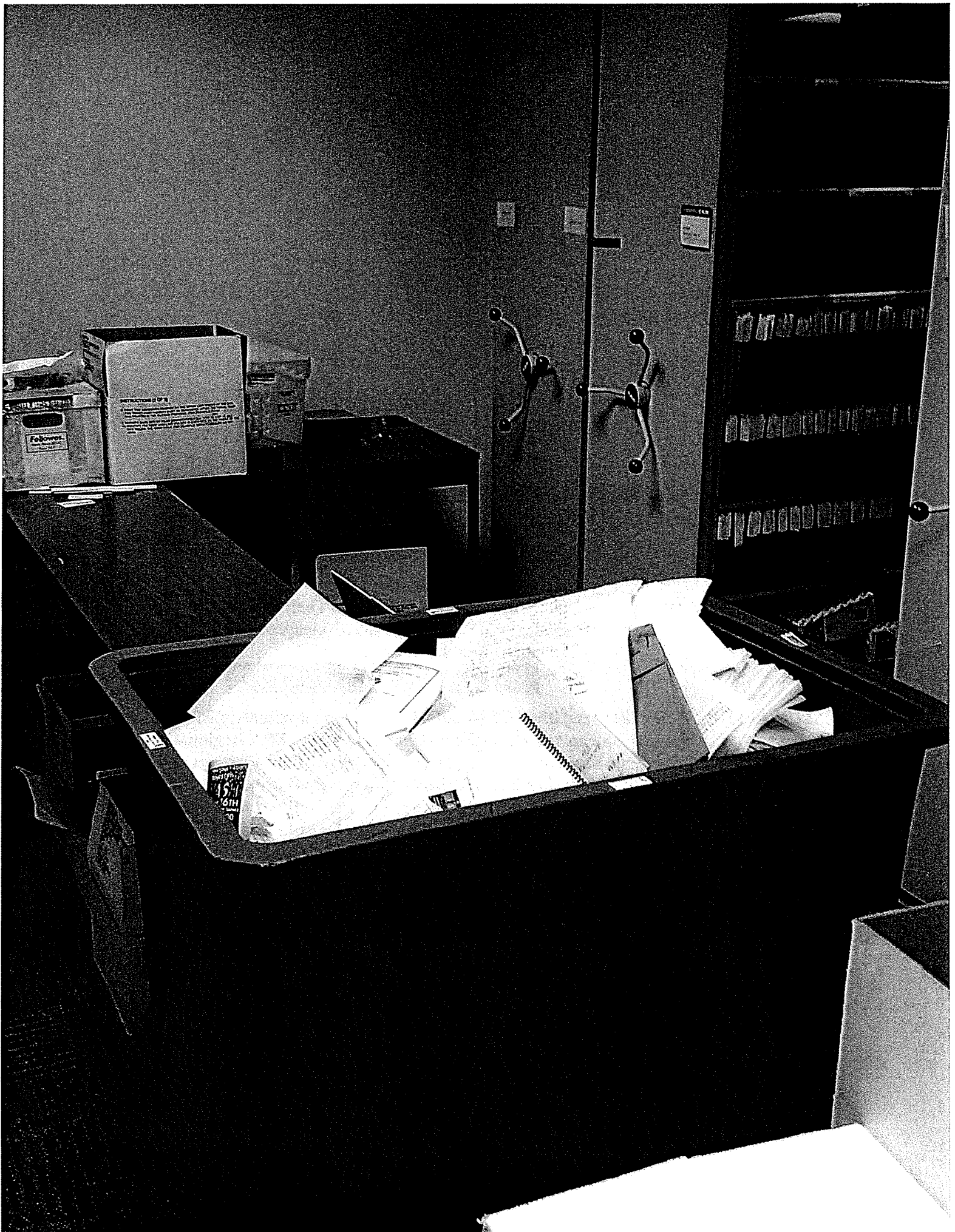
From: [REDACTED]
Sent: Friday, April 03, 2015 4:00 PM
To: [REDACTED]
Subject: Archived records for 2012, 2013, 2014 & 2015

[REDACTED] can you please print me out the data base of archived files for record schedule 211 and 207 (compliance & enforcement files) for the last three years.

If you can narrow it down to Lead-based Paint program or PTSB that would be great. If not, just APTMD is fine.

Thanks. [REDACTED]

[REDACTED]
US EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303
[REDACTED]





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

THE OFFICE OF INSPECTOR GENERAL

April 20, 2015

[REDACTED]
Special Agent in Charge
Federal Bureau of Investigation
Atlanta Field Office

[REDACTED]
Atlanta, GA 30345

Dear SAIC [REDACTED]

Pursuant to the Homeland Security Act of 2002, we are notifying your Agency of a new case which may be of mutual interest :

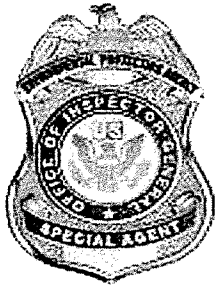
DATE OPENED: January 30, 2015
CASE NUMBER: OI-AT-2015-CAC-0031
SUBJECT NAME: Unknown Subject(s): Possible Theft of Files from Air, Pesticides, Toxic Substances Management Division, EPA Region4, Atlanta, GA
CASE AGENT: SA [REDACTED]

ISSUE/ALLEGATION: Between 05/01/2014 and 08/31/2014, approximately 96 were determined to be missing from an unsecured file room located within EPA Region 4 office space on the 12th floor of the Sam Nunn Atlanta Federal Center, 61 Forsyth Street, Atlanta, GA. The files belonged to the Air, Pesticides, & Toxic Substances Management Division and were identified as Enforcement file records. These files were utilized to process air quality violations against companies within the EPA Region 4 area of responsibility. Approximately 8 of the files may have contained non-sensitive PII information for the responsible parties identified in the violation.

If you have any questions or wish to discuss this case in further detail, please contact me at (404)

[REDACTED]
Sincerely,

[REDACTED]
Acting Special Agent in Charge



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303

MEMORANDUM OF INTERVIEW

Interview Date:	March 31, 2015
Case Name:	UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA
Case Number:	OI-AT-2015-CAC-0031
Interviewee:	[REDACTED], Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA
Interview Location:	EPA OIG 61 Forsyth Street, 12 th Floor Atlanta, GA
Interviewed By:	[REDACTED]
Witnesses:	

On March 31, 2015, SA's [REDACTED] interviewed [REDACTED] [REDACTED] Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA regarding the possible theft of enforcement files from the Air, Pesticides and Toxic Substance Management Division (APTSMD), EPA Region 4, Atlanta, GA. After proper identification was shown and [REDACTED] was advised about the nature of the interview. [REDACTED] provided the following information:

[REDACTED] is assigned to the Lead and Asbestos Section, Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA. [REDACTED]

[REDACTED] Chemical Safety and Enforcement Branch.

[REDACTED] estimated that approximately 90% of the Enforcement Section's files were maintained in an unsecured file room. The remaining 10% of the files were being maintained at the desks of Lead and Asbestos Section employees.

Prior to late 2011/early 2012, enforcement cases were only assigned to full-time permanent EPA employees. After the aforementioned time frame, [REDACTED] changed the program and began [REDACTED] employees.

(Agent's Note: The [REDACTED]
[REDACTED]
[REDACTED])

Up until late 2012/early 2013, all inspection files were tracked (and assigned a number) through a log book created by [REDACTED]. If the inspection was referred for enforcement, a separate docket number/case number was assigned to the file by [REDACTED]. At this time, the inspection/enforcement files were maintained in numerical order, but separated as to whether the file was opened or closed. This made efforts meeting archive requirements easier.

The inspection/enforcement files were maintained in folders similar to those of the other Sections who maintained files in this mixed-use file room. It was not until the past year, or so, that the Enforcement Section began placing their files in the distinctive green folders.

[REDACTED] the procedure of tracking inspection/enforcement files was changed by [REDACTED]
[REDACTED]

[REDACTED] became aware of the issue of missing files in late 2013/early 2014. [REDACTED] was approached by [REDACTED] who was requesting information from some of [REDACTED] prior actions. [REDACTED] informed [REDACTED] that when [REDACTED] attempted to retrieve [REDACTED] closed files, [REDACTED] was unable to locate them. When [REDACTED] checked the file room, [REDACTED] observed that numerous files seemed to be missing from the shelves utilized by [REDACTED] Section in the file room.

While searching for some of [REDACTED] missing files, [REDACTED] located several boxes of files being stored at workstation of [REDACTED]. [REDACTED] located one of [REDACTED] missing files within the boxes. While looking through these files, [REDACTED] noticed several problems such as: (1) use of an unapproved certification form, and (2) Clearance Letters sent persons/entities in which the inspection clearly specific violations. [REDACTED] made photocopies of the files in which "problems; were found.

Later in 2014, [REDACTED], approached [REDACTED] and inquired about three of [REDACTED] closed files. Again the area was searched but the files were not located. Eventually, all three files were found to have been archived.

[REDACTED] advised APTSM management of numerous issues (some possibly regulatory violations) with how [REDACTED] section conducted inspections and enforcement activities, as well as the poor quality of the files maintained by the Enforcement Section. In addition, [REDACTED] went to APTSM managers with complaints related to [REDACTED] [REDACTED]

No actions were taken by management in response to [REDACTED] complaints.

In addition to missing files, [REDACTED] reported that the log books previously maintained by [REDACTED] and [REDACTED] were missing. [REDACTED] believed that [REDACTED] was the last employee to be in possession of these log books.

[REDACTED] stated that none of the missing files would had contained sensitive PII and opined that some of the missing files were possibly archived without being properly recorded. [REDACTED] reasoned that the only motive anyone would have to remove/conceal the files would be to conceal

evidence supporting [REDACTED] complaints to APTSDM management regarding the “problems” within [REDACTED] section. [REDACTED] specifically identified [REDACTED] as benefiting from the missing files.

(Agent’s Note: [REDACTED] reported that [REDACTED] by management, in response to [REDACTED] complaints related [REDACTED] were initiated by [REDACTED] [REDACTED] the EPA-OIG hotline regarding problems with [REDACTED], refer to EPA-OIG hotline complaint # 2015-066 for additional informational.)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303

MEMORANDUM OF INTERVIEW

Interview Date:	March 27, 2015
Case Name:	UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA
Case Number:	OI-AT-2015-CAC-0031
Interviewee:	[REDACTED], Lead and Asbestos Section, Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA
Interview Location:	EPA 61 Forsyth Street, 12 th Floor Atlanta, GA
Interviewed By:	[REDACTED]
Witnesses:	

On March 27, 2015, SA's [REDACTED] re-interviewed [REDACTED], Lead and Asbestos Section, Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA regarding the possible theft of Enforcement files from the Air, Pesticides and Toxic Substance Management Division (APTSMD), EPA Region 4, Atlanta, GA. After proper identification was shown and advised about the nature of the interview, [REDACTED] provided the following information:

An audit of the Enforcement files identified 96 files as missing. Of the 96 missing files, 8 may had contained personally identifiable information (PII). These 8 files were identified by title as:

[REDACTED]. It was suspected that these files may have contained PII because the subject title was an individual instead of a corporate entity. Possible PII contained in the missing files were: first and last names; home addresses and/or telephone numbers; and/or email addresses. No identifiers, such as dates of birth or Social Security numbers, or financial information would have been contained in the missing files. A complete list of the missing files is appended as attachment 1.

(Agent's note: Files highlighted in yellow were located after the list was initially prepared)

[REDACTED] had no opinion as to the nature (stolen, misplaced, shredded, etc...) of the missing files.

██████████ confirmed that all remaining enforcement files have been moved to a secured storage area. Another additional correction activity planned is the appointment of a file custody officer. In the future, Enforcement Branch personnel will be required to sign for all files removed from the storage area.

(Agent's Note: Formerly, Enforcement Branch personnel just removed files from the storage area when they needed work. There was no tracking system in place.)

Attachment:

1. Excel spreadsheet of missing files compiled by ██████████



Missing files.xlsx



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303**

MEMORANDUM OF INTERVIEW

Interview Date:	February 12, 2015
Case Name:	UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA
Case Number:	OI-AT-2015-CAC-0031
Interviewee:	[REDACTED], Lead and Asbestos Section, Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA
Interview Location:	EPA OIG 61 Forsyth Street, 12 th Floor Atlanta, GA
Interviewed By:	[REDACTED]
Witnesses:	SA [REDACTED]

On February 11, 2015, SA's [REDACTED] and [REDACTED] interviewed [REDACTED] [REDACTED] Lead and Asbestos Section, Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA regarding the possible theft of Enforcement files from the Air, Pesticides and Toxic Substance Management Division (APTSMD), EPA Region 4, Atlanta, GA. After proper identification was shown and advised about the nature of the interview, [REDACTED] provided the following information:

Approximately 100 lead and/or asbestos inspections were conducted each year. The results of these inspections are filed for later review by enforcement staff. As enforcement staff close cases, they retrieve an open file. (b) (5)

The settlement of an enforcement action, which resulted in a closing of the case, was identified as a "commitment." [REDACTED] section was assigned a yearly goal ranging from 25 to 30 "commitments." Since this amounted to only a fraction of the actual number of inspections conducted each year, the files in [REDACTED] section spanned a period of up to 5 years. There was a 5 years statute for limitations on regulatory violations, so any files over 5 years old were closed without action.

[REDACTED] first noticed that files were missing from the file space assigned to [REDACTED] section in January 2014. While the file room housed files from several sections within APTSMD, files

from [REDACTED] section were easily recognizable because only [REDACTED] section utilized green files. [REDACTED] assumed staff had removed the files and placed them in their workspaces. "Other priorities" existed, so [REDACTED] did not attempt to identify or locate any files. [REDACTED]

[REDACTED] recognized that [REDACTED] section was not on pace to meet its number of assigned commitments for FY 2014. When [REDACTED] went to retrieve files [REDACTED] realized the section was "way short on the number of files...way, way off." There should had been 500 to 600 enforcement files in the file area. However, [REDACTED] only located a small fraction of that number. [REDACTED] reported the incident to [REDACTED], Chemical Safety and Enforcement Branch.

[REDACTED] and [REDACTED] determined that none of the missing files had been archived. They questioned staff, but none expressed any knowledge of the whereabouts of the files or who may have removed them. The only employee identified as being in the workspace at nontraditional work hours (e.g. weekends) was [REDACTED]

In January 2015, [REDACTED] and [REDACTED] made additional efforts to locate the missing files. [REDACTED] sent emails and visited staff workspaces with requests for files. Through this process, [REDACTED] recovered a large number of files. [REDACTED] maintained a spreadsheet listing all of [REDACTED] section's files. [REDACTED] is currently comparing the files [REDACTED] located with the spreadsheet to determine which, and how many, files remain missing.

[REDACTED] acknowledged that the number of missing files was significantly less than originally projected. The highest estimate of missing files was now in the 50 to 100 range. Identification of the missing files should be completed by COB 02/13/2015.

To date, no files related to active enforcement actions have been identified as missing. All missing files have been identified as closed or not assigned. No PII should be contained within the missing files.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303**

MEMORANDUM OF INTERVIEW

Interview Date:	February 11, 2015
Case Name:	UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA
Case Number:	OI-AT-2015-CAC-0031
Interviewee:	[REDACTED], Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA
Interview Location:	EPA OIG 61 Forsyth Street, 12 th Floor Atlanta, GA
Interviewed By:	[REDACTED]
Witnesses:	

On February 11, 2015, SA's [REDACTED] and [REDACTED] interviewed [REDACTED] [REDACTED] Chemical Safety and Enforcement Branch, EPA Region 4, Atlanta, GA regarding the possible theft of enforcement files from the Air, Pesticides and Toxic Substance Management Division (APTSMD), EPA Region 4, Atlanta, GA. After proper identification was shown and [REDACTED] was advised about the nature of the interview, [REDACTED] provided the following information:

[REDACTED] Chemical Safety and Enforcement Branch. This Branch is located on the 12th floor of the Sam Nunn Atlanta Federal Center and is part of the APTSMD, EPA Region 4, Atlanta, GA. Part of this Branch's responsibilities is the review of Lead and Asbestos inspection files. When warranted, enforcement actions are pursued based the inspections. The inspection files were maintained in an open area on the 12th floor.

On average, approximately 100 lead/asbestos inspections were conducted each year. On completion, the inspection files were placed in the file room, awaiting review by enforcement personnel. (b) (5) [REDACTED]

[REDACTED] These regulatory violations typically have a statute of limitations of 5 years. Therefore, some of the open inspection files housed within the Chemical Safety and Enforcement Branch were up to 5 years old.

The Chemical Safety and Enforcement Branch was assigned a goal each year related to the number of enforcement actions completed. [REDACTED] identified this goal as a "commitment." A "commitment" was described as bringing the sought after enforcement action to "final settlement." The Enforcement Branch was assigned the goal of approximately 25 – 30 "commitments" per year.

[REDACTED] complained to [REDACTED] and later [REDACTED] about the quality of the files (specifically complained of files being "all messed up"). [REDACTED]

In May/June 2014, [REDACTED] was advised by [REDACTED] that the Enforcement Section would not meet their "commitments" for the year because a large number of files, as many as several hundred, were missing from their file room. [REDACTED] opined that as many as 500 should have been in the file area, [REDACTED] was only able to locate approximately 30 files.

The missing files included open and closed cases. It was determined that the files were not moved to another area related to reallocation of space activities being conducted on the 12th floor. Nor had any closed files been sent for archive over the past year.

A search of the area failed to locate the missing files. When questioned, staff denied any knowledge of the missing files. [REDACTED] were made aware of the incident in September/October 2014, after the enforcement section failed to meet its "commitments" for FY2014.

For the most part, the missing files would have only contained the name, address, and contact information for the individual(s) against which enforcement actions were being sought. If the subject of the enforcement action had filed an "Inability to Pay" request with EPA, those files could potentially contain personal identifiers and other financial information for the subject. [REDACTED] was in the process of identifying the missing files.

(Agent's Note: [REDACTED] questioned by [REDACTED] about the missing files. However, [REDACTED] requested copies of the 12th floor access logs from the EPA Region 4 security section, but they refused to comply with this request because of an agreement with the employees union. [REDACTED] represented by an attorney [REDACTED]



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303

CASE #: OI-AT-2015-CAC-0031

CROSS REFERENCE #:

TITLE: UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA

PREPARED BY: [REDACTED]

MEMORANDUM OF ACTIVITY

Receipt of Complaint

On January 28, 2015, [REDACTED], EPA Region 4, Atlanta, GA, contacted the EPA-OIG regarding the possible theft of an undetermined quantity of files from the Air, Pesticides, & Toxic Substances Management Division, EPA Region 4, Atlanta, GA. An incident report completed by [REDACTED] reported the following information:

- Between 05/01/2014 and 08/31/2014, an undetermined quantity of files were removed from the file room located within EPA office space on the 12th floor of the Sam Nunn Atlanta Federal Center;
- The files, identified as Enforcement file records, were utilized to process air quality violations against companies within the EPA Region 4 area of responsibility and therefore contained PII information;
- The incident was reported to the EPA Region 4 Security Office on 01/27/2015 by [REDACTED] Air, Pesticides, & Toxic Substances Management Division, EPA Region 4, Atlanta, GA, attachment 1.

Upon questioning by EPA-OIG, [REDACTED] reported the following:

- [REDACTED] identified the files as missing in September 2014. [REDACTED] reported the finding to [REDACTED] "managers." However, after a search failed to locate the files, no further actions were taken nor notifications made. According to [REDACTED] stated to [REDACTED] that maybe [REDACTED] should had made [REDACTED] managers better aware of the serious of the situation;
- The missing files did not become a primary concern until the Air Division was unable to meet its "quota" relative to the issuance of Notice of Violations. When questioned by management why the quota was not/could not be met, the missing files were cited as the reason;
- Only thirty files related to pending air enforcement actions were located in the file room. There should have been several hundred;
- The missing files may cover a period of 5 or more years;

- The storage area utilized for these files was an open, unsecurable area accessible to anyone on the floor;
- [REDACTED], Information Infrastructure Branch, EPA Region 4, is conducting a search of the Region 4 file database in an effort to identify the missing files.

Attachment:

1. EPA Security Office Incident Report, dated 01/27/2015



EPA Incident
Report.pdf

INCIDENT REPORT

DATE OF REPORT: 01/27/15

TIME: 1430

DATE OF INCIDENT: 05/01/14 -08/31/14

TIME: Unknown

LOCATION: File Room 12th Floor Sam Nunn Atlanta Federal Center, 61 Forsyth St SW, Atlanta GA.

TYPE OF INCIDENT: Theft

SUSPECT: Unknown

COMPLAIN [REDACTED] Air Pesticides Toxics Division, 12th Floor Sam Nunn Atlanta Federal Center, 61 Forsyth ST SW, Atlanta, Ga. 30303.

WITNESS: [REDACTED] Air Pesticides Toxics Division, 12th Floor Sam Nunn Atlanta Federal Center, 61 Forsyth ST SW, Atlanta, Ga. 30303.

VICTIM: US Government, Environmental Protection Agency

NARRATIVE: [REDACTED] reported that between the above dates person(s) unknown removed a yet to be determined number of Enforcement file records from the File room. The files contained critical PII information used to process air quality violations against companies in USEPA Region 4 area of responsibility. The Region 4, Information Security Officer has been notified and the incident has been turned over the Office of the Inspector General for further investigation.

[REDACTED]

EPA, Region 4
[REDACTED]



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, S.W., ROOM 12T20
ATLANTA, GA 30303**

CASE #: OI-AT-2015-CAC-0031

CROSS REFERENCE #:

TITLE: UNKNOWN SUBJECT: POSSIBLE THEFT OF FILES FROM AIR, PESTICIDES AND TOXIC SUBSTANCES MANAGEMENT DIVISION, EPA REGION 4, ATLANTA, GA

PREPARED BY: [REDACTED]

CASE INITIATION

Subject(s)	Location	Other Data
UNKOWN SUBJECT		

NARRATIVE:

This investigation was predicated upon the receipt of information from [REDACTED] [REDACTED] EPA Region 4, Atlanta, GA, attachment 1. On January 28, 2015, [REDACTED] reported the following information to the EPA-OIG:

Between 05/01/2014 and 08/31/2014, an undetermined quantity of files were removed from the file room located within EPA Region 4 office space on the 12th floor of the Sam Nunn Atlanta Federal Center, 61 Forsyth Street, Atlanta, GA. The files belonged to the Air, Pesticides, & Toxic Substances Management Division and were identified as Enforcement file records utilized to process air quality violations against companies within the EPA Region 4 area of responsibility. Therefore, the files are believed to contain PII information for the responsible parties identified in the violation.

The incident was reported to the EPA Region 4 Security Office on 01/27/2015 by [REDACTED], Air, Pesticides, & Toxic Substances Management Division, EPA Region 4, Atlanta, GA. However, the files were initially identified as missing by [REDACTED] in September 2014. According to [REDACTED], after a search failed to locate the files, no further actions were taken nor notifications made. [REDACTED] reported to [REDACTED] that maybe [REDACTED] should had made [REDACTED] managers better aware of the serious of the situation

The missing files did not become a primary concern until the Air Division was unable to meet its "quota" relative to the issuance of Notice of Violations. When questioned by management why the quota was not/could not be met, the missing files were cited as the reason.

The missing files may cover a period of 5 or more years. Only thirty files related to pending air enforcement actions were located in the file room. There should have been several hundred. Efforts are being made to identify the missing files.

ATTACHMENT:

1. Memorandum of Activity – Receipt of Complaint



Receipt of
Complaint.docx