



Midwest Illegal Turtle Trade: Effectively Prosecuting Trafficking Cases

Ryan Connors, Senior Trial Attorney

Environmental Crimes Section

U.S. Department of Justice

Ryan.Connors@usdoj.gov

(202) 598-3826

DOJ ENRD Environmental Crimes Section

35 federal prosecutors based in Washington, DC

Nationwide jurisdiction

Can work cases alone or with U.S. Attorney Offices

State prosecutors can be cross designated



When to go Federal

- Interstate conduct
 - Wildlife and criminals don't care about borders
- International component
- Problem with state law
- Declined by fed/state prosecutors
- Significant priority
- Second bite at the apple*



Priorities

Status: endangered, protected, CITES

Monetary value

Quantity

International element

Repeat offenders

Offensive conduct

Corruption

Deterrence



Ryan's Opinion

Small cases are worthwhile!

- Often develop into bigger cases
- Wildlife investigations, especially turtles, overlap networks of poachers, shippers, middlemen, financiers...
- Recognize patterns in the trade and institutions like banks, online sellers, shipping companies...
- DOJ works with state officers all the time, usually in conjunction with USFWS or task force.



Turtles + X = Case

- Narcotics
- Firearms
- Bribery
- Trespass
- Other wildlife
- Eggs\Hatchlings
- Inhumane shipment
- Immigration/Visa violation
- Imports/Exports
- CITES I
- Habitat destruction



Lacey Act Primer

Two Most Common Charges

A) Trafficking

Doing just about anything with wildlife, fish, or plants when the resource is somehow illegal under a state, federal, or international resource-focused law.

B) False Labeling

“A border and a lie”



Typical Lacey Act Fact Pattern

- 1) Step One: Something made turtles illegal
 - a) Often violation of state law as to take, possession, sale...
 - 2) Step Two: Target then moves turtles in interstate or foreign commerce
- *Need \$350 market value for felony. Aggregation allowed



Factors Unique to Turtle Trafficking

- ❖ Case in every state/district/region
 - ❖ Includes source of wildlife, transportation, resale, shipment, stores, banks...
- ❖ Many offenders are still careless and don't think anyone watching
- ❖ Good data points for successful prosecution and jail sentences
- ❖ Programmatic significance as a U.S. resource under high demand



Just the Facts

- Federal and State investigators excel at proving the facts
- Know your elements, including value
- Lay the groundwork for warrants and subpoenas
- Build trial exhibits, including photographs and video
- Always picture a trial 2 years later



Know your value

USSG § 2b1.1



(b) Specific Offense Characteristics

(1) If the loss exceeded \$6,500, increase the offense level as follows:

Loss (apply the greatest)	Increase in Level
(A) \$6,500 or less	no increase
(B) More than \$6,500	add 2
(C) More than \$15,000	add 4
(D) More than \$40,000	add 6
(E) More than \$95,000	add 8
(F) More than \$150,000	add 10
(G) More than \$250,000	add 12
(H) More than \$550,000	add 14
(I) More than \$1,500,000	add 16
(J) More than \$3,500,000	add 18
(K) More than \$9,500,000	add 20
(L) More than \$25,000,000	add 22
(M) More than \$65,000,000	add 24
(N) More than \$150,000,000	add 26
(O) More than \$250,000,000	add 28
(P) More than \$550,000,000	add 30.



Knowledge

- When did you know it was wrong:
 - To steal
 - To lie
 - To punch someone who annoys you
- How about:
 - To possess more than three box turtles
 - To take a wood turtle in May to November
 - To ship reptiles using US Postal Service
 - To obtain a FWS import/export license



Still Knowledge

- Almost all wildlife crimes have a “knowingly” element
- Lacey Act
 - Knowing the wildlife were taken/possessed/transported unlawfully
 - In the exercise of due care, should have known
- Endangered Species Act
 - Knowingly violations
- Georgia law
 - “It shall be unlawful for any person to make use of or possess any wildlife or parts thereof which he knows or reasonably should have known” was illegal.



Proving Knowledge

- Permits/certifications/licenses
- Prior violations and citations
- Circumstantial behavior in packaging, traveling, speaking
- Dirty Talk or failure to correct

“It’s not easy to find a buyer for these. It’s not like I can put them on eBay.”

“I get the picture.”

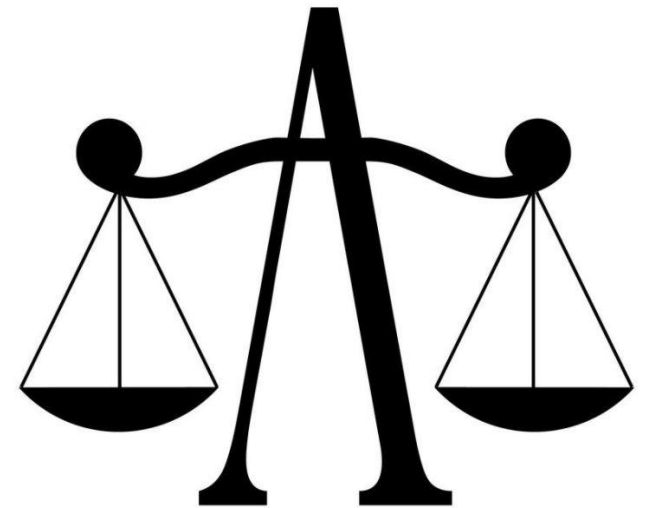
Teach Your Prosecutor

- State law and regulations
- Modus Operandi
- Programmatic significance
- Unique species or habitat factors
- Support from public or community



Prosecutor

1. Paid to be pessimists
2. Have a full docket with competing priorities
3. Often need to learn new state laws or districts
4. Discovery and speedy trial rules are strict
5. Lose control of the pace after indictment
6. Cannot control a judge or clerk
7. Beware: “Sure, sounds good”



Speaking Indictment

On Jan 1st, John Doe disturbed and harassed pupfish in violation of the Endangered Species Act.

The pupfish live in only two underground pools in Nevada. In 2019 there were 135 known pupfish in the wild.

On Jan 1st, John Doe urinated and vomited into the pupfish's pool before climbing a barricade and swimming in the pool, disturbing and harassing the pupfish in violation of the Endangered Species Act.



Biologists: Teach the Team

Investigators

- New trends from development, climate change, pop culture...
- Where and when to look
- Priorities
- Anticipate seizures
- Information to convince prosecutors
- Value: local, legal, black market, international



Teach the Jury

Counter prejudices and myths

Prepare until comfortable

Speak plain English

Act like an expert

Avoid arguments

OK to say “I don’t know”

You’re more interesting than
most witnesses



Teach the Judge

Assume no knowledge of wildlife

Support with facts and sources

- Journals, news sources, NGO

Employ your networks

Give prosecutors the information

Highlight key issues



Sentencing Example

“With newfound wealth in the region... turtles are just another rare, coveted item to collect, like wine, fine art, and cars. Demand has already wiped out large number of native turtles in Asia, making American turtles even more attractive.”

Dina Fine Maron, *National Geographic* (Oct. 28, 2019)



Examples: Sentencing Memorandum

- Diamondback terrapins “are particularly vulnerable to human impacts due to their longevity and the relatively low survival of eggs and hatchlings.”
- It is “difficult for terrapins to naturally repopulate a site, even if threats are removed.”
- A study of wildlife trafficking in Europe showed “reptiles were by far the most numerous protected species identified, with live tortoises and turtles, in particular, representing 45% of the specimens.”



Get Creative

- Species
 - Habitat
 - Transportation
 - Social Media
 - Online Marketplaces
 - International trade routes
- Traditional Stores
 - Restaurants
 - Surveillance
 - Technology
 - Flow of Money
 - Reptile Shows



Phone a Fed. Any time. Really.

Ryan.Connors@USDOJ.gov

W: (202) 305-0363

C: (202) 598-3826

