



Public Participation in Compliance and Enforcement

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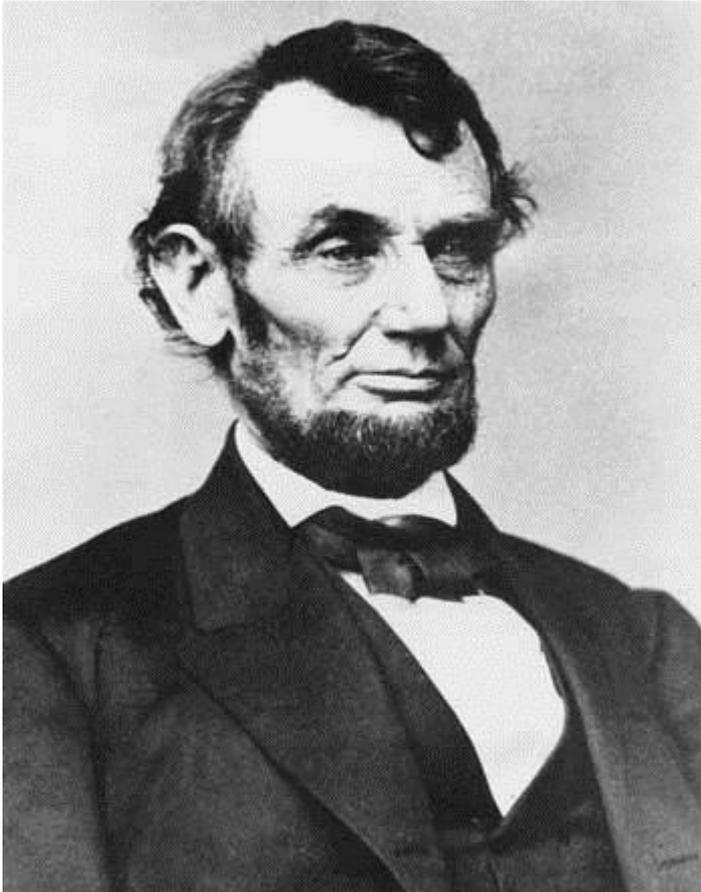
INECE Background

- Global network
- Conducts trainings, convenes stakeholders, shares lessons



- Public participation**
- Compliance**
- Enforcement**

- **Public participation:** a process that solicits and considers stakeholder views in the decision making process
- **Compliance:** the state of meeting requirements
- **Enforcement:** actions to encourage or compel compliance
 - ▣ and to address harms caused by violations



“Law without enforcement
is only good advice.”

Abraham Lincoln

Why do people comply with the law? [Why do they violate it?]

Why do people comply with the law? [Why do they violate it?]

- It is the right thing to do
- They might be caught
- Potential penalties (financial, criminal, debarment, ...)
- Reputation, social standing, and shame



“It takes 20 years to make a reputation and 5 minutes to ruin it.” – Warren Buffett

Criminal

Reactive

Compliant

Regulated Entities

Will comply only if compelled

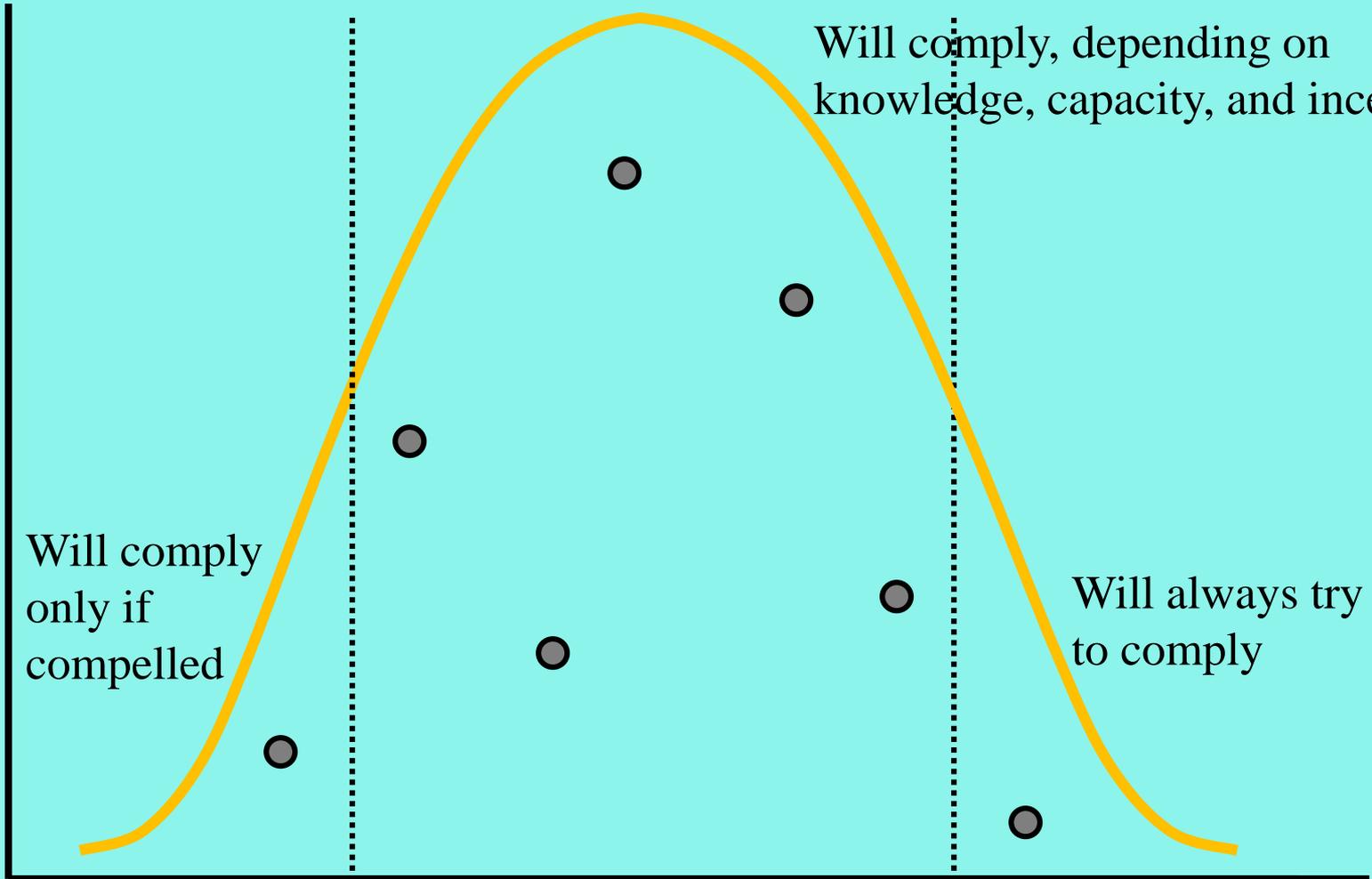
Will comply, depending on knowledge, capacity, and incentives

Will always try to comply

← Less

Degree of Compliance

More →



Importance of understanding the regulated community and tailoring approaches

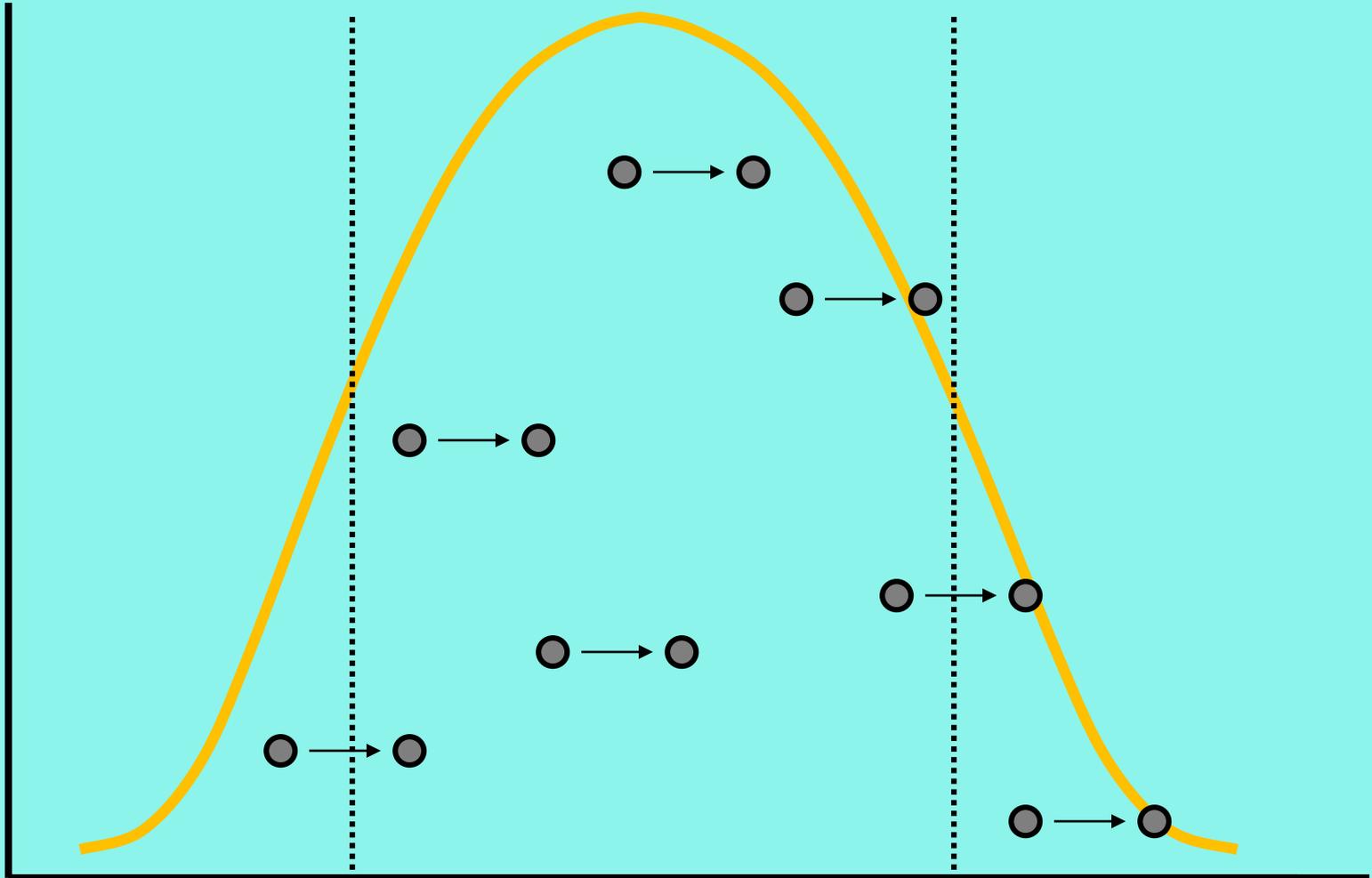
- **Deterrence theory**
 - Likelihood of detection
 - Swift and sure response
 - Appropriate sanction
 - Perception of the first three elements
- **Economic theory**
- **Behavior theory**
 - Social factors
 - Psychological factors
 - Knowledge and technical factors
 - Organizational behavior

Criminal

Reactive

Compliant

Regulated Facilities



← Less

Degree of Compliance

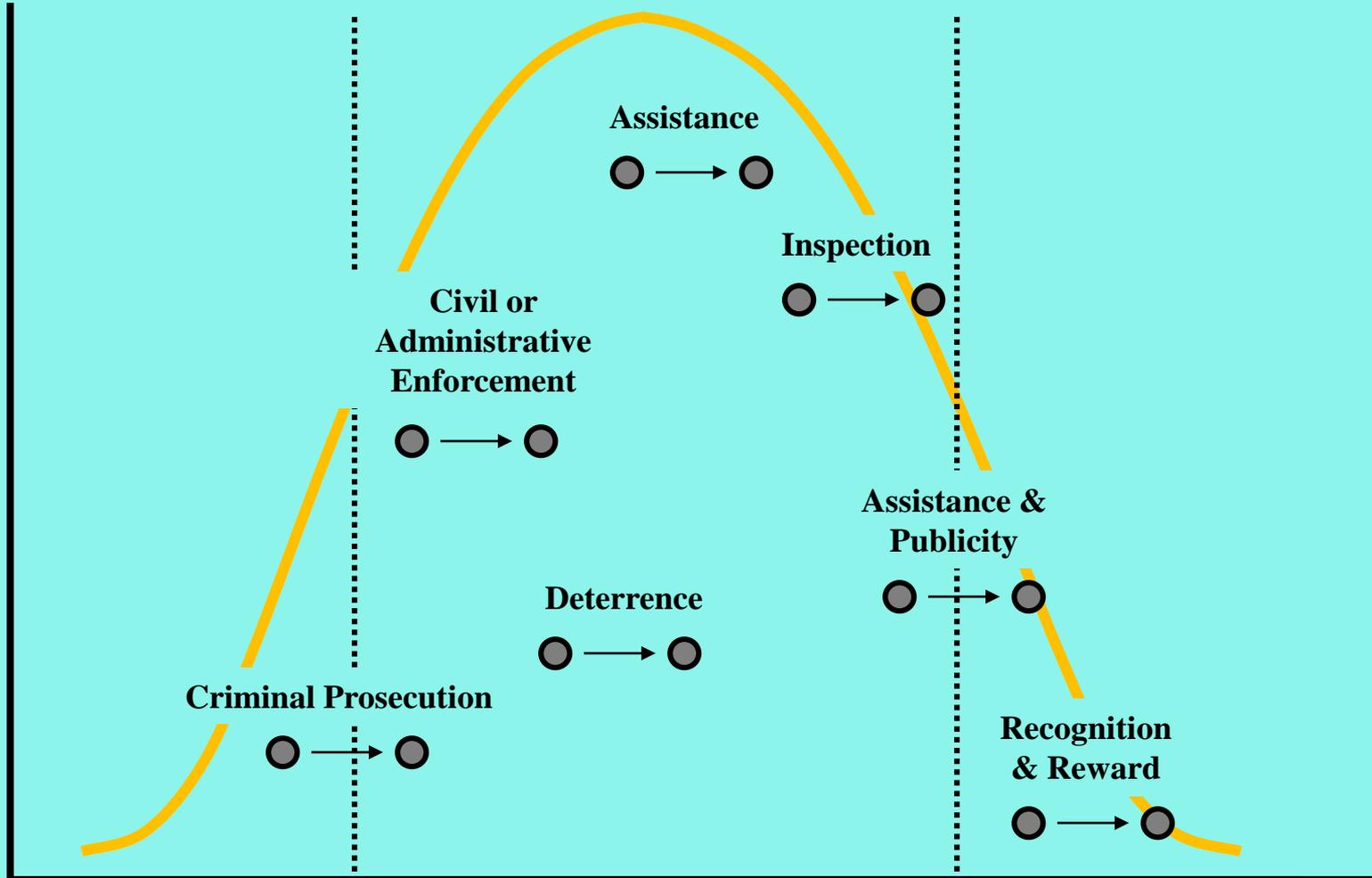
More →

Criminal

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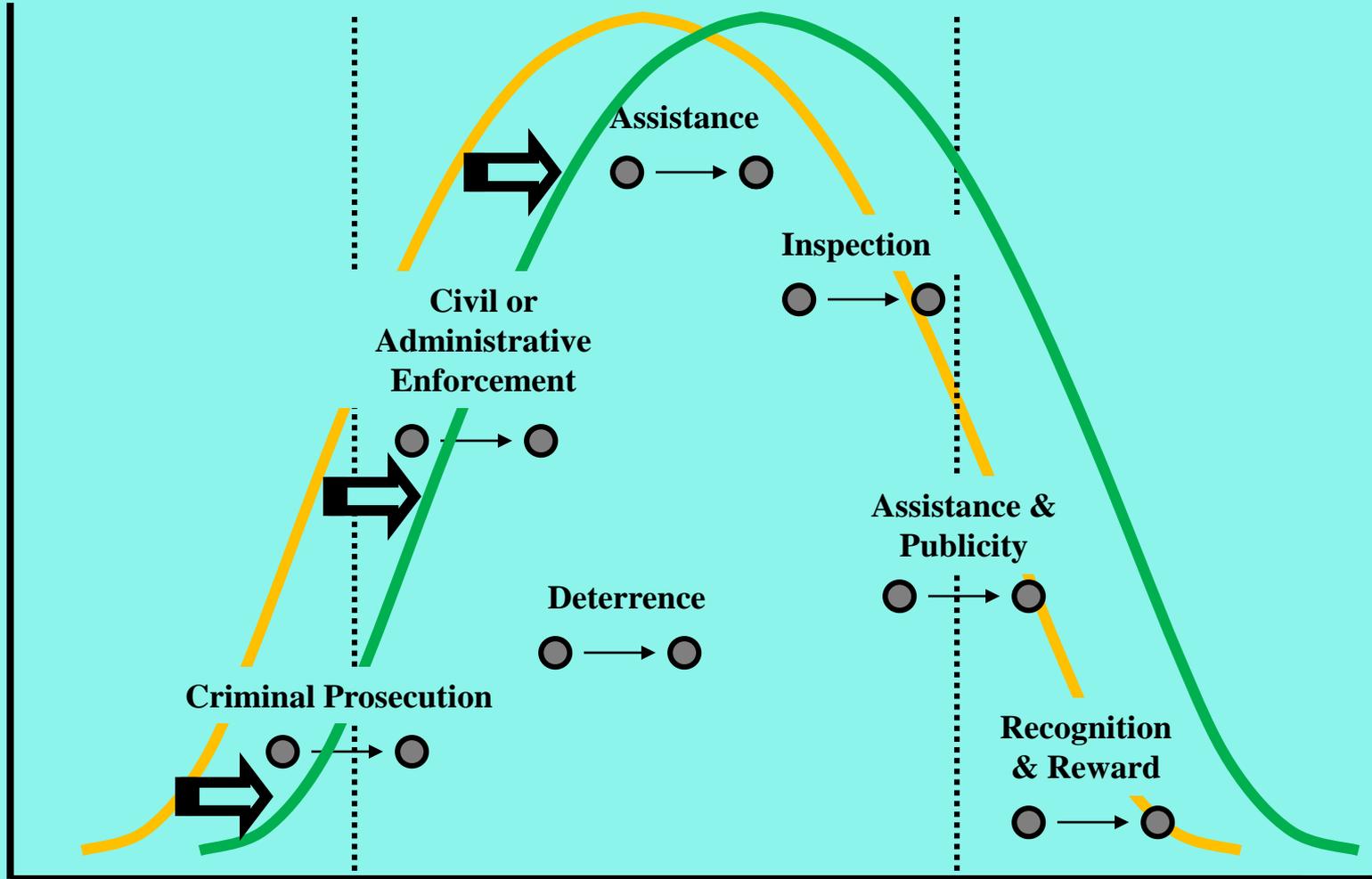
More →

Criminal

Reactive

Compliant

Regulated Facilities



← Less

Degree of Compliance

More →

Compliance Assistance



- Activities designed to improve compliance by **building capacity, knowledge, and will to comply** with legal and regulatory requirements

Compliance Assistance

- Examples
 - Informational resources: websites, brochures, etc.
 - Public meetings
 - Training
 - Professional training
 - Schools, universities
 - Information lines
 - Environmental audits



<http://static3.businessinsider.com/image/560aa08f9dd7cc17008bdc87/study-koreans-are-34-times-more-likely-to-than-other-immigrants-to-operate-dry-cleaners.jpg>

Enforcement of ...

What are the sources of legally binding norms that are enforced?

What are the sources of legally binding norms that are enforced?

- Statutes
- Regulations
- Decrees
- Permits
- Constitution
- International law?

- (Maybe) not
 - Policies
 - Guidance



How do you find these instruments?

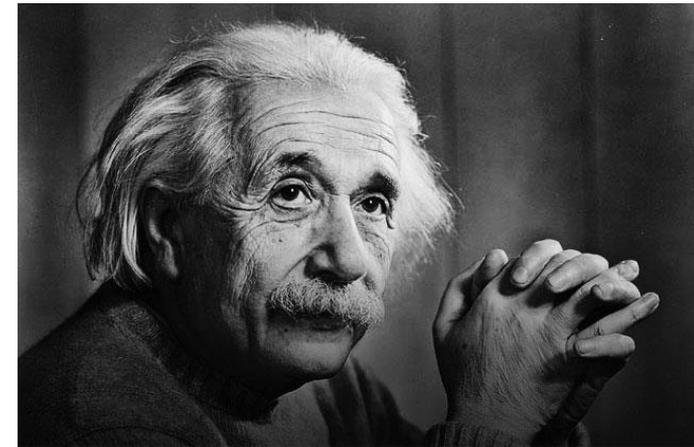
- Statutes, regulations, decrees, constitution, international law
- Permits

How do you find these instruments?

- Statutes, regulations, decrees, constitution, international law
- Permits
- Government (website or offices)
- Library
- NGOs
- www.ecolex.org; faolex.fao.org; www.informea.org
- World Bank and other lenders

Public Participation in Enforcement

- “Pre-enforcement” activities such as monitoring and compliance assurance
- Right to petition
- Citizen suits
- Participation in government enforcement suits



“The world will not be destroyed by those who do evil, but by those who watch them without doing anything.”

– Albert Einstein

Detecting a Violation

How can you find out if there is a violation?

Detecting a Violation

How can you find out if there is a violation?

- You or another private party observes it (documenting)
 - Testing
- Self-reporting
- Government
 - Freedom of Information Act request

Citizen Monitoring and Complaints

Individual citizens have the right to observe their surroundings

- ▣ “River Keepers” organizations patrol rivers
- ▣ Training and “deputizing” students / groups
- ▣ NOTE: can be dangerous

If they discover violations, can

- ▣ File a complaint with the Government (to bring suit)
- ▣ Bring suit against the violator directly

The Government then has the option to join the citizen’s suit

Who?

For what?

When?

Results?

Who?

- citizens (individual or collective)
- NGOs
- other organizations

For what?

When?

Results?

Who?

For what?

- violations of the law (against private or public entities)
- violations of nondiscretionary duties
- need
 - foundation in the law or constitution
 - standing

When?

Results?

Who?

For what?

When?

- May need to give government notice (e.g., 60 days)
- Citizen suits as a complement to governmental enforcement

Results?

Who?

For what?

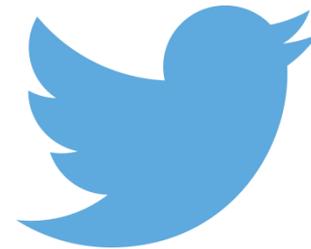
When?

Results?

- Penalties (paid to Government treasury)
 - may include damages to the environment
- Injunction
 - inc. restoration of natural resources
- Supplemental Environmental Projects (SEPs)
- Settlement

Thank you!

Visit: inece.org



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