

Jonathan Brightbill Dissects Criminal Prosecution for Climate Change in *E&E News*

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Winston & Strawn Partner Jonathan Brightbill addressed questions from *E&E News* about whether companies can be held criminally responsible for climate-related deaths that occurred after allegedly knowing about the dangers of global warming. Jonathan was Acting Assistant Attorney General at the U.S. Department of Justice, where he oversaw federal enforcement of environmental crimes.

While criminal prosecutions do occur for deaths from environmental crimes, Jonathan explained that proving a causal connection to climate change would be difficult because of its diffuse nature, unlike an oil spill or a fire. “In a fire, if it was started by gross negligence or misconduct, the causal connection is pretty readily evident,” he said.

With climate change, individual companies could argue that their “fractional contribution” to greenhouse gases worldwide are “dwarfed by the increases in emissions we see out of China every couple months.” Jonathan also noted that prosecutors—in the case of criminal charges against a company after a disaster—would need to “prove beyond a reasonable doubt that the storm was the result of climate change, as opposed to a mere natural event that, but for the emissions of the company, would not have occurred.”

“I cannot say that there is no prosecutor in America who would pursue this, but the chances are slim that the approach will gain traction,” Jonathan said.

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