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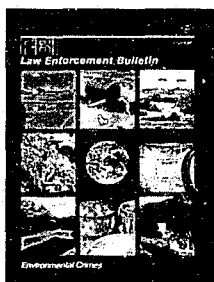
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Editor—Stephen D. Gladis, D.A.Ed.
Managing Editor—Kathryn E. Sulewski
Art Director—John E. Ott
Assistant Editors—Alice S. Cole
Karen F. McCarron
Production Manager—Andrew DiRosa
Staff Assistant—Carolyn F. Thompson

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Photo courtesy of the U.S. Coast Guard



The Environmental Protection Forum

Photo courtesy of Clay Myers, FBI



By
MICHAEL A. O'BRIEN

In recent years, environmental crime has received increased attention. The growing industrialization of our Nation, media focus on several serious environmental incidents, and a heightened public sensitivity to this type of offense has brought the environmental issue into the limelight.

Coordinated efforts among law enforcement agencies, fire departments, and regulatory agencies have long been in place in some

parts of the United States, particularly the Northeast and West Coast. Still, many jurisdictions do not have an organized approach to the detection, investigation, and prosecution of the environmental criminal.

Shortcomings

The lack of organization and communication among some agencies arose for a number of reasons. Historically, environmental crime

was not an investigative priority. Few States enacted statutes that dealt adequately with environmental offenses, and typically, law enforcement agencies focused their attention on the more traditional crimes. Also, local district attorneys or States' attorneys offices handled so few environmental cases that no one individual gained sufficient expertise to prosecute the environmental offender. Moreover, judges who imposed minimal sanctions



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*Mr. O'Brien is an Assistant State's Attorney and
 Chief of the Economic Crimes Unit in the Office of
 the State Attorney, Orlando, Florida.*

after a plea or conviction displayed a lack of knowledge as to the seriousness of environmental offenses and the costly effect of such crimes.

Even regulatory agencies, while having considerable knowledge of environmental science and regulations, were unprepared. For the most part, environmental workers lacked basic knowledge of the investigative techniques and case preparation skills necessary to prosecute the environmental criminal successfully. And, in most jurisdictions, several agencies shared the responsibility for enforcing environmental regulations. Identifying just which Federal, State, or local agency had the responsibility for a particular environmental problem was sometimes difficult and usually frustrating.

Solution

Environmental crime has no jurisdictional boundaries. It can occur anywhere, at any given time.

Therefore, a broad spectrum of participants from law enforcement and other public service departments is needed for any program designed to combat the environmental criminal.

To combat the environmental criminal, the Office of the State Attorney for the Ninth Judicial Circuit in the State of Florida organized the Central Florida Environmental Protection Forum. Previous efforts against environmental violators involving the office had been fragmented, and cooperative efforts between law enforcement and regulatory agencies were infrequent. By establishing the forum, organizers hoped to identify problems encountered in detecting, investigating, and prosecuting the environmental offender. They also wanted the forum to serve as a means for participants to gain an understanding of the different perspectives and capabilities of the agencies involved in the fight against environmental crime.

Organizers of the forum gathered representatives from

police agencies, fire departments, and environmental regulatory agencies at both the State and local levels. Also invited to join in the effort were local building inspectors, public health personnel, and sewer authorities. However, when organizing environmental forums, coordinators should not overlook agencies unique to a particular area, such as game and fish commissions, water management districts (a special taxing district in Florida), and coastal and marine patrols.

Forum's Purpose

The forum serves primarily as an information exchange. It is designed to instruct participants about the responsibilities and operations of the agencies involved in investigating and prosecuting all aspects of environmental crime, primarily through training sessions.

Perhaps the greatest problem in training members of an environmental forum is the diverse nature of their skills and experience. Training must cover all aspects of environmental crime, yet remain interesting to all.

Training

The Central Florida Environmental Protection Forum offers classes on State and Federal statutory law, chain of custody, and environmental evidence handling procedures. It also addresses the placarding and manifesting of hazardous waste, the requirements for investigating an environmental case, dealing with the criminal justice system, participating in a mock trial, and the proper response when contaminated by a hazardous substance.

A thorough knowledge of State and Federal environmental laws is critical when dealing with environmental crime. Crimes of this nature are complex, technical, and differ in significant ways from other types of crime. Environmental statutes, as well as amendments, relevant definitions, defenses, and exceptions, may be spread over several volumes. And while normally no individual obtains permission to commit an offense, it is quite possible that a suspected environmental violator may claim an exception under a particular statute in order to be issued a permit from an environmental regulatory agency. For example, a local township may be pumping raw sewage into a nearby lake, but if a permit to do so has been issued by a regulatory agency, criminal prosecution probably will not be initiated.

The training also incorporates a practical exercise staged in a simulated environmental crime scene. During this phase of instruction, firefighters learn that there is more to an environmental incident than their primary concern of containment and control. Police officers and regulatory workers learn how a fire department responds to a hazardous waste spill. In addition, information presented during this exercise that is so basic to one organization offers new insight to participants from other agencies. For example, firefighters can identify the senior fire officer on the scene by the color of helmet worn, a fact not readily known to police officers and regulatory workers.

This practical training exercise exposes participants to the complexities of incident control.

The shift of command can pose problems as control at the scene is passed from the fire department and its containment activities to the police department for investigation, and finally to the regulatory agency for clean up. In addition, the practical exercise affords the best means

gets the various agencies to work together. No longer are agencies faceless entities, but people trying to do their jobs professionally. Indeed, the forum allows those who work environmental crimes to meet their counterparts in other agencies, which facilitates cooperation. For

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available for participants to learn about unique environmental problems, such as a contaminated corpse or corrosive evidence.

Instructors for the training sessions are drawn from participating agencies. For instance, prosecutors teach law, police officers explain the proper way to investigate environmental crime, and regulatory workers provide information on environmental sciences. But, if other agencies can provide useful information, they should not be overlooked. Even if they cannot participate directly, they may be able to provide instructional materials. Outside instructors, as a norm, increase interest in the forum and generate higher attendance.

Benefits

Establishing an environmental forum produces immediate benefits. Perhaps the most important benefit of environmental training is that it

example, regulatory workers now know who in law enforcement has knowledge of and experience in working environmental crimes. Or, police officers may meet more readily with prosecutors they know to determine if an environmental violation has occurred and whether a particular incident is criminal or civil in nature.

Police officers may learn that the best place to send environmental crime evidence is not to a crime laboratory, but to a regulatory agency's laboratory. Questions regarding who is responsible for reviewing a particular environmental activity or which agency responds to an environmental incident no longer remain unanswered.

Maintaining Momentum

The extent of participation by the various agencies varies considerably. Some agencies participate enthusiastically in forum activities,

while others rarely appear for the sessions or drop out altogether. This is why it is important to continue to generate interest in the program. Agencies from other jurisdictions should be encouraged to join in the effort. Topics for instruction should be reviewed and updated, and new developments in environmental issues should be incorporated into the training.

It is important that training be balanced so that one particular topic does not dominate the sessions. The training should be sensitive to the member agencies, particularly in their desire to cooperate but to maintain separate identities. For example, fire departments and regulatory agencies do not want their personnel "turned into cops." This practice will also preclude possible claims by future defendants that forum members, by virtue of their participation, have become agents for the State's attorney or a police department.

Conclusion

Detecting, investigating, and prosecuting the environmental criminal poses a complex and often difficult task to each agency that deals with environmental violations. However, the successful prosecution of the environmental offender is possible when there is cooperation among police, fire, and regulatory agencies. Such cooperation will not occur spontaneously, but must be fostered through the exchange of information and knowledge. Only then will advances be made to combat environmental crime.

LEB

CHP's Hazardous Waste Investigative Unit

The amount of hazardous waste generated in this country changed dramatically with the industrial growth that followed World War II. For example, by the end of the war, U.S. industries generated roughly 500,000 metric tons of hazardous waste per year.¹ The Environmental Protection Agency's Office of Solid Waste now reports that the amount of hazardous waste generated has soared to approximately 300 million metric tons per year.

As the volume of hazardous waste production increased, the public became more aware of the dangers of improperly managed hazardous waste. Congress responded to this problem with strong legislation to protect both the environment and public health, and cities and States enacted strict pollution control laws to prohibit the illegal disposal of hazardous and toxic wastes.

These pollution control laws impact on corporations, which must bear the financial burden of proper waste disposal. As a result, to reduce operating costs, some corporations dispose of hazardous and toxic waste illegally. In order to avoid detection and prosecution, these corporations have, over the

years, become more sophisticated in the illegal methods by which they dispose of their hazardous waste. To combat this growing problem, the California Highway Patrol (CHP) established a Hazardous Waste Investigations Unit.

A Specialized Unit

The CHP, as a State agency, has jurisdiction throughout the entire State. And, because hazardous waste cases require closely coordinated multijurisdictional investigations, the CHP is the primary investigative agency for these crimes within California.

The purpose of the Hazardous Waste Investigative Unit is to reduce the number of violations involving the transportation and disposal of hazardous waste within the State. There are 10 hazardous waste investigators located in CHP divisions throughout the State. These investigators:

- Investigate and seek prosecution of those who illegally transport and dispose of hazardous waste
- Reduce the amount of illegally transported hazardous waste through public awareness programs and industry contact