

THE BILL BLACKWOOD
LAW ENFORCEMENT MANAGEMENT INSTITUTE OF TEXAS

The Evolving Role of Traditional Policing Agencies
in Environmental Crime Enforcement

A Policy Research Project
Submitted in Partial Fulfillment
of the Requirements for Graduation from the
Leadership Command College

By
Steve Pendergrass

Austin Police Department
Austin, Texas
July 2003

ABSTRACT

This paper presents arguments for the creation of Environmental Crime Units in local law enforcement agencies. The underlying foundations of environmental crime enforcement in Texas are also outlined. The role of modern law enforcement agencies in environmental crime enforcement is presented along with some of the problems encountered in creating an environmental crime unit in traditional law enforcement agencies. Larger cities in the state such as Dallas, Houston and San Antonio have already formed Environmental Crime Units. Austin and other cities will be considering the formation of similar units in the next decade. This paper will discuss reasons why cities such as Austin must ultimately decide what the role of their local law enforcement officers will be in environmental crime enforcement. Local enforcement of environmental laws is remanded to local authorities. Recognition of environmental offenses by police officers increases as they become trained in environmental laws. There are several inducements for local law enforcement agencies to become involved in environmental crime enforcement including advantages in fighting crime and the awarding of monetary penalties to investigating agencies. Other inducements include free training for local officers in basic and intermediate levels of environmental crime enforcement. Research revealed that law enforcement agencies should develop enforcement models that include general enforcement training for patrol-level officers and more specialized training for community policing officers and investigators. The missing element is a commitment by local law enforcement agencies to create and sustain dedicated enforcement resources for environmental crime and code enforcement.

TABLE OF CONTENTS

| | Page |
|----------------------------|------|
| Abstract | |
| Introduction..... | 1 |
| Methodology | 2 |
| Review of Literature | 3 |
| Findings..... | 12 |
| Conclusion | 18 |
| References | 21 |

INTRODUCTION

Environmental crime investigation and enforcement has not been perceived as a requisite task of traditional law enforcement in this country. With the move to community policing in the past decade, police officers have been challenged to “think outside the box” to find alternative investigative and enforcement avenues in order to fight crime where traditional modes of policing have either failed or proved ineffective. Environmental crime enforcement, code enforcement, and water quality enforcement provide such non-traditional avenues. The law enforcement community has long recognized that urban decay provides a breeding ground for criminal activities. The long-term consequences of environmental crimes are not always immediately evident, but these crimes are not victimless. The costs of associated illnesses, injuries, deaths and damage can be overwhelming in the long-term if left unattended (Hammet & Epstein, 1993). Texas cities such as Dallas, Houston, and San Antonio have already formed Environmental Crime Units. Austin and other cities are faced with making a decision whether to form similar units in the near future and to what extent this involvement will take.

This paper presents arguments for the creation of Environmental Crime Units in local law enforcement agencies. For the purposes of this paper, the author has defined the term ‘environmental crime enforcement’ as meaning *the enforcement of health, environmental, solid waste, zoning and water shed laws and ordinances to affect the apprehension of criminal offenders or to deter criminal activities, including the selective enforcement of such laws, to affect police objectives where traditional methods of law enforcement have either failed or proved ineffective.*

The traditional view of local governments toward environmental crime enforcement and the result those views have had on the law enforcement response to environmental crimes are

discussed. The underlying foundations of environmental crime enforcement in Texas are also outlined. The paper includes arguments concerning the advantages of including environmental crime investigations units in traditional law enforcement agencies. Research revealed a connection between environmental crime enforcement, community policing, and the problem-solving model currently implemented by many police departments throughout the United States. The role of modern law enforcement agencies in environmental crime enforcement is presented along with some of the problems encountered in creating an environmental crime unit in traditional law enforcement agencies.

It is the author's contention that by adding environmental crime units to their crime-fighting inventory, local police agencies enhance their community's ability to reduce urban decay, a recognized breeding ground for crime. Investment of officers and resources would appear to be a relatively inexpensive and effective benefit with a positive measurable return. Environmental crime units will almost certainly become basic equipment in the ranks of law enforcement crime fighting tools in the near future.

METHODOLOGY

Research includes literature review of books, police journals, newspaper articles, training manuals, the Internet, inter-department memos, and written applications for grant funds. Due to the scarcity of printed material on this topic, personal interviews were conducted to supplement the research of written materials. The interviews include environmental quality professionals, criminal prosecutors, police executives, law enforcement personnel involved in environmental crime enforcement, civilian solid waste experts, and others involved in water quality, hazardous materials disposal, and solid waste disposal planning. Statistics compiled from some of these same sources are included.

REVIEW OF LITERATURE

Police agencies have not traditionally thought of environmental crimes as part of their standard job description. Environmental issues have been left to other agencies to monitor. Tim Carter, states that at least one hundred billion tons of hazardous waste are produced annually in this country. Ninety percent of that waste is disposed of in an environmentally insensitive or illegal manner (Clifford, 1998 (quoting S. Humphries, *American University Law Review* 39 (1990) 311-354)). The National Institute of Justice classifies environmental offenses into three categories: 1) Violations of permit conditions or other illegal acts committed by individuals or firms already part of the regulatory scheme; 2) acts committed by individuals or firms out side the regulatory scheme; and 3) acts that would be illegal regardless of whether the actor was within the regulatory scheme (National Institute of Justice, 1993). Money is always the bottom line motivator in environmental crimes. Anytime a business can save money by non-compliance, it gains an advantage over its competitors. The same may be said concerning individual property owners who seek to avoid high landfill fees by dumping trash along the side of rural roads or on vacant lots (Brewer, 1995).

In much of the United States, and particularly in the state of Texas, enforcement of environmental laws and regulations has traditionally been left to civilian administrators and regulators who typically do not have powers of arrest and who rely on administrative sanctions and civil penalties for enforcement. Administrative procedures and civil injunctions may take several years before being heard or coming to trial. Enforcement actions are usually imposed only against the business or corporation involved, even when individual violators have been identified. Without serious fear of criminal sanctions, some business owners simply factor the fines into the cost of doing business, passing these costs on to their customers (National Institute

of Justice, 1993). Criminal prosecution is generally a quicker process than civil proceedings. Additionally, the fines and penalties reclaimed through the criminal process often exceed those obtained through civil procedures (Hammet & Epstein, 1993). In environmental cases, civil violations are based solely on strict liability rather than having to prove fault or negligence as is the case in other types of civil cases. In criminal cases, the state normally has to prove a culpable mental state showing the defendant acted knowingly, intentionally, recklessly or with criminal negligence. With respect to environmental violations, the state may only have to prove that the party acted negligently (Deatherage, 2002).

Remediation has been another tool used by civilian regulators. It has been a common belief among civilian regulators that forcing violators to restore a damaged site to a specified standard of cleanliness would somehow be more beneficial than filing criminal charges. Some authorities argue the cost of remediation fails to deter environmental criminals because of the potential for monetary gain is greater than the cost of remediation *if* detected (Clifford, 1998). In some cases, monetary penalties sufficient enough to deter these criminal acts would be beyond the offender's ability to pay (Clifford, 1998). Eric Kaufman, Spill Response investigator with the City of Austin Water/Waste Water Department, argues that remediation is often effective, but that civilian regulators need the option and ability to refer cases to criminal investigators in those few cases where remediation has failed to gain compliance (Personal communication, June, 2003).

These types of reactive strategies are giving way to a more proactive philosophy. In the case of businesses that violate environmental laws, the new realization is that successful deterrence only occurs when both the corporation and its executives are punished. According to Cook County, Illinois, Assistant District Attorney Donald Mielke, "Until a potential for criminal

prosecution is added to the equation, many of these environmental criminals will continue to illegally store, transport and dump hazardous wastes in blatant violation of the law" (National Institute of Justice, 1993, p. 48). Theodore M. Hammet and Joel Epstein, writing in a report prepared for the National Institute of Justice, agree that regulation in and of itself does not protect citizens and the environment. It is the fear of being charged with a criminal offense, being arrested or actually serving time in jail that has the greatest deterrent effect (National Institute of Justice, 1993).

Former head of the Special Investigations Unit of the Texas Natural Resource Conservation Commission (TNRCC - now the Texas Commission on Environmental Quality), Barbara F. Foreman, states that the words "environmental" and "crime" were only recently mutually exclusive (Foreman, 1995). Foreman defines the term environmental crime as *"an act committed or omitted in violation of a criminal statute related to environmental damage or regulation"* (Foreman, 1995, p. 3). Federal legislation such as the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Act of 1984 coupled with State of Texas regulations contained in the Solid Waste Disposal Act, the Texas Health and Safety Code and the Texas Water Code form the basis for environmental crime enforcement in Texas (Foreman, 1995). Provisions in the Texas Penal Code provide investigators and prosecutors with additional enforcement authority with respect to those individuals or corporations that submit false information or tamper with governmental records. Penal Code provisions that prohibit fraud or deception in securing the execution of a document are also tools commonly used by environmental crime investigators. The use of provisions of the penal code not directed exclusively at environmental offenses has proved effective in criminal environmental enforcement (Foreman, 1995).

In 1991 Texas Governor Ann Richards created the Texas Environmental Enforcement Task Force (TEETF) in order to promote federal and state collaboration in the investigation and prosecution of environmental laws (Texas Natural Resource Conservation Commission (TNRCC), 2001). The task force is comprised of twenty-seven federal, state, and local agencies. Included are the Texas Commission on Environmental Quality (TCEQ) (formerly TNRCC), the U.S. Environmental Protection Agency, U.S. Attorney's Office, Federal Bureau of Investigation and the Austin Police Department. According to TCEQ Chairman, Robert J. Huston, through calendar year 2001 the task force had secured the convictions for 113 individuals and 24 corporations (TNRCC, 2001). This included 190 felony and 86 misdemeanor convictions. The convictions netted 118 years in jail and prison sentences, 283 years probation, and in excess of \$50 million in criminal and civil penalties (TNRCC, 2001).

The Texas Commission on Environmental Quality only has ten investigators and one staff attorney to cover the State of Texas (Personal Communication with Phil Bynum, Chief, TCEQ Special Investigations, July 12, 2004). The TCEQ is also responsible for the distribution of federal and state grant and training funds to local enforcement entities. Working in an advisory capacity, the TCEQ works with several regional entities to help coordinate and improve solid waste enforcement, environmental law enforcement training and distribution of grant funds. To accomplish this, several regional task forces have been created within the state. The Capitol Area Planning Council (CAPCO) administers grant funding that provides training and equipment to local enforcement agencies in a nine-county area of Central Texas. The Capitol Region Solid Waste Enforcement Task Force (RETF) was created in 1994 to improve and coordinate enforcement of solid waste laws in Central Texas. This task force includes among its members the Austin Police Department, Travis County Attorney's Office, Travis County Natural

Resources Department, Lower Colorado River Authority, and many other state, county, and municipal departments throughout the nine county area (RETF, 1996).

Due to their lack of manpower, the TCEQ Special Investigations Unit concentrates on major violators throughout the state. Local enforcement is remanded to local authorities. Only a few of the TCEQ regulators are commissioned peace officers. They rely on local officers to obtain and execute search and arrest warrants and to take other types of police actions. According to Travis County Transportation and Natural Resources Department Environmental Project Manager, Melinda Mallia, the trend over the past decade is for federal and state agencies to hand environmental crime investigations over to local authorities (Personal communication, October, 2002). A 1999 report prepared for the Houston-Galveston Area Council states that in areas where there is no effective enforcement or prosecution of environmental laws, illegal dumpers will continue to violate environmental laws and there will be no reduction in illegal dumping (Reed-Stowe & Co., 1999). Dr. John Ockels, Regional Criminal Justice Coordinator for the Texoma Council of Governments, states that enforcement of environmental crimes in Texas is the responsibility of local officials. Although some communities enforce environmental laws, others do not (Ockels, 2002). A visible local enforcement program will noticeably reduce illegal dumping. The lack of an effective enforcement program may actually encourage dumping. In instances where the local law enforcement agencies ignore these crimes, the amount of dumping will increase (Ockles, 2001). Larger jurisdictions such as Dallas, San Antonio, and Houston have already formed full-time environmental crime enforcement units. Many smaller cities and rural county sheriff's departments have assigned officers at least on a part-time basis.

The addition of law enforcement agencies to the enforcement of code, zoning, and environmental laws only enhances the overall quality of enforcement of these laws and service to the public. Law enforcement officers can easily observe environmental and zoning violations as part of their patrol duties and, thus, the likelihood that environmental crime will be detected is measurably increased (National Institute of Justice, 1993). Recognition of environmental offenses by police officers increases as they become trained in environmental laws. As law enforcement agencies become more familiar with environmental crime enforcement, they will more readily enforce laws relating to the environment (National Institute of Justice, 1993).

Police officers, however, must remain aware of their limitations in conducting enforcement and investigations of laws where they are likely to have limited expertise. Law enforcement criminal investigators are likely competent in basic investigatory skills such as witness or suspect interviews, search/arrest warrant preparation and service, collecting evidence, maintaining a chain-of-custody, etc. Officers must learn to accept that tasks such as hazardous material sample collection and analysis should be left to regulatory agencies who are better equipped and trained for this job. For example, law enforcement officers are already aware that such tasks as chemical analysis of evidence in narcotics or homicide cases are better left to crime and pathology labs (National Institute of Justice, 1993). In devising the appropriate enforcement model for environmental law enforcement for the local jurisdiction, the most important step is to decide what the role of regulatory, law enforcement, and prosecutorial agencies will be.

Agencies considering moving from a reactive environmental enforcement strategy to a proactive strategy will discover several advantages. One such advantage is the ability to catch some offenders in the act (Clifford, 1998). This subsequently facilitates prosecution. Secondly, such a proactive program sends a message to would-be offenders that the agency is aggressively

investigating and prosecuting environmental offenses (Clifford, 1998). Third, a proactive strategy creates a deterrence effect when law enforcement agencies are able to intervene in the early stages of an environmental offense (Clifford, 1998). Stopping environmental offenses in the early stages is a fourth inducement for implementing proactive strategies. Reducing potential damage to the environment lessens the health risks associated with environmental damage (Clifford, 1998). As mentioned previously, remediation can be ineffective as a deterrent for environmental crimes when the monetary penalties outweigh potential profits. Proactive enforcement strategies are clearly preferable as a deterrent to remediation when applied to environmental crimes. As the cost of lawfully disposing of hazardous wastes and everyday refuse continues to escalate, so does the need to proactively enforce environmental laws (Clifford, 1998). Corporations invest a lot of money in their efforts to comply with environmental laws. If their competitors are allowed to go unchecked or undetected when violating environmental laws, the offending businesses gain an economic benefit over honest commercial enterprises (Clifford, 1998).

Other than the obvious fact that environmental crimes are criminal acts, some progressive law enforcement agencies get involved in environmental crime enforcement for an additional reason - Quality of Life. The failure to enforce environmental crimes has been likened to the *Broken Windows theory*. The major tenet of this theory states when communities do not attend to minor offenses, a sense of permissiveness and increased disorder will necessarily follow. (Henry, 2002) (Wilson & Kelling, 1982) Co-architect of the New York Police Department's Compstat process, Vincent E. Henry, states integration of Broken Window strategies into everyday police operations played a major role in reducing crime in New York City (Henry, 2002).

Austin Police Department Lt. Sean Mannix (formerly an officer with the Alameda, CA Police Department Commercial Enforcement [Hazardous Materials] Unit) says failure to address environmental crime in certain areas of town leads to the idea that section of the city is an expendable neighborhood (Personal communication, October, 2002). Speaking about the commitment of law enforcement agencies to improving the quality of life, Austin Police Chief Stan Knee asserts,

"No other agency has the responsibility of improving the quality of life in neighborhoods. ...No other agency in Municipal or County government is under so much pressure as the police to act. Police are often saddled with problems outside of traditional policing because of our involvement in Community Policing. Citizens know they can pick up 9-1-1 and expect something to be done. When you talk of both topics (traditional law enforcement and community policing), then environmental law enforcement should be part of the tools to achieve the mission." (Personal communication, September 30, 2002)

Police departments cannot accomplish the goals of community policing on their own. To do this, they must enlist the support and commitment of all other agencies involved in local government. Agencies or entities with which the police build cooperating relationships to solve community problems must have as strong a commitment to the endeavor as do the police (Henry, 2002).

There are several crime-fighting advantages to having officers in traditional police agencies trained in and assigned to environmental crime enforcement. First, enforcement of environmental and code violations provides the ability to apply non-traditional enforcement tools where traditional methods may have already failed. Second, civilian regulators often complain that police officers are needed in environments where criminals may threaten their safety as they

conduct inspections. Environmental crime and code enforcement regulators express a strong preference for having a police officer trained in the needs and requisites of environmental crime or code enforcement to assist them rather than having an untrained patrol officer who would otherwise be randomly assigned to respond to a call for assistance. Third, law enforcement officers are much more willing to issue citations or file criminal charges where voluntary compliance has failed or is deemed inappropriate due to the nature of the violation. Some prosecutors believe that the “mindset” of civilian regulators causes them to not use all of the enforcement tools at their disposal. These prosecutors believe that civilian regulators are too reliant on voluntary compliance. In some circumstances, the regulatory approach places these regulators at odds with criminal enforcement and prosecution of environmental laws (National Institute of Justice, 1993). Civilian regulators are more likely to develop relationships with business they regulate, making them over sensitive to the preferences of the business (National Institute of Justice, 1993).

Another advantage to having officers trained in environmental crime enforcement is that it enhances the law enforcement agency’s ability to enforce narcotics laws. In the event sufficient amounts of narcotics are not found during an investigation, the presence of discarded hazardous materials or chemicals used in the manufacture or processing of those narcotics may allow criminal prosecution from an alternate route. A fifth advantage is in the area of auto theft investigations. Officers trained in environmental crime investigations often accompany auto theft task force officers on inspections of vehicle salvage yards and repair facilities. Enforcement of environmental statutes allows officers to issue citations that can result in thousands of dollars worth of fines (Personal communication, Travis County S.O. Deputy Gerald Kim, August, 2002).

Additionally, there are other inducements for local law enforcement agencies to become involved in environmental crime enforcement. Not the least of these is the fact that local governments may qualify for fifty to seventy-five percent of recovered fines when enforcing state or federal statutes (Personal communication with Travis County Sheriff's Deputy Gerald Kim, August, 2002). The Texas Commission on Environmental Quality (TCEQ) provides free training to local officers in basic and intermediate levels of environmental crime enforcement. The TCEQ also provides hundreds of thousands of dollars of grant money annually to local law enforcement agencies for use in purchasing such equipment as vehicles, computers, radios, surveillance equipment, etc.

FINDINGS

With all of the arguments made above, it would seem a forgone conclusion that cities such as Austin would already have dedicated units for environmental crime enforcement. The Austin Police Department's (APD) membership in such environmental enforcement bodies as the Regional Solid Waste Enforcement Task Force and the Texas Environmental Enforcement Task Force would lead to the assumption that APD has an active environmental enforcement program. This is not the case. In fact, Austin PD only has one fully trained investigator for environmental enforcement. That officer, Detective Cathy Haggerty, is designated as her department's liaison for both the RETF and the TEETF, but is precluded from investigating environmental crimes due to her current job assignment. The task of investigating environmental crimes in Austin is left to civilian regulatory agencies within the city that have the expertise and training to conduct investigation of regulatory violations, but have no criminal investigations skills or authority to file criminal complaints above the Municipal Court level (Class "C" misdemeanors).

The Austin Police Department refers calls dealing with environmental, solid waste, zoning, and code enforcement to the civilian regulatory agencies and, occasionally, to its District Representatives. District Representatives are community-policing officers and relatively few District Representatives have received even introductory training in environmental crime enforcement. Those officers who have received training are basically trained to recognize environmental, zoning, and code violations, and then contact city civilian regulatory agencies for enforcement. None of these officers are trained or authorized to conduct in-depth or follow-up investigations concerning environmental criminal violations. Under the organization scheme of the Austin Police Department, in-depth criminal investigations are remanded to Detectives. This system works well in incidents where the infraction is minor, and would likely be best handled by civilian regulators in any case. But in incidents where the criminal infraction is more serious, there is currently no one in APD trained to conduct a more-involved follow-up criminal investigation concerning environmental crimes.

In 2001 civilian regulators with the City of Austin's (COA) Water/Waste Water Department's Spill Response Team contacted APD Detective Haggerty concerning a case where a local franchise of a national automotive oil change chain was intentionally discharging used oil into the city waste water system (Personal communication with COA Spill Response investigator Eric Kaufman, October, 2002). The evidence developed by the Spill Response Team was convincing, and included video surveillance evidence of the suspects actually discharging the used oil into wastewater drains (Personal communication with COA Spill Response investigator Eric Kaufman, October, 2002). The civilian regulators needed peace officers to assist in filing felony criminal charges against the suspects. Precluded from investigating the case because of her job assignment, Detective Haggerty attempted to enlist the assistance of the detective unit in

the area of town where the offense occurred. This unit declined to accept the case, ostensibly because it was not the type of case they normally investigate. More likely, the unit's reluctance to accept the case was due to the fact the investigators had no training or experience in filing this particular type of criminal offense. Detective Haggerty eventually convinced Deputy Gerald Kim, an environmental criminal investigator with the Travis County Sheriff's Department, to accept the case. Felony charges were filed and a conviction and civil penalties obtained. The share of the civil penalties that would have gone to the City of Austin and to APD was awarded to Travis County instead (Personal communications with Detective Cathy Haggerty, October, 2002; Deputy Gerald Kim, August, 2002; Asst. Travis County Attorney Neal Kucera, October 22, 2002; and COA Spill Response investigator Eric Kaufman, October 2002).

Despite the obvious need to develop a cohesive and comprehensive enforcement program consisting of civilian regulators who have the technical expertise to investigate environmental violations and law enforcement investigators who have expertise in filing criminal cases, the ability to blend the two fields of knowledge is not as easy as it might seem. The City of Austin has no less than thirteen city departments involved in some aspect of code and/or environmental enforcement. This includes such departments as the Water/Waster Water Department, the Health Department, Neighborhood Zoning and Planning Department, the Austin Fire Department, and, in theory, the Austin Police Department.

In the spring of 2003 city departments convened a *Code Enforcement and Inspection Services Project* in order to plan how to more effectively provide their services to the citizens of Austin and Travis County. The most commonly mentioned problem was one of communication between the departments themselves. The city departments do not always know the roles of other departments when their jurisdiction or responsibility over certain functions overlap or even

conflict. For instance, in the case of a violator with solid waste violations on his property, the Neighborhood Zoning and Planning Department, with responsibility over zoning functions, may elect to respond to a violation by trying to get voluntary compliance. With respect to the same violation, the Solid Waste Department may prefer to use citations as a means of enforcement. When there is overlapping jurisdiction over the same violation, a lack of communication among the agencies may cause duplicitous or conflicting responses that can cause problems in court for prosecutors when the disparity is made known.

The *Code Enforcement and Inspection Services Project* identified the need to identify the roles and responsibilities of regulatory, investigative, and prosecutorial agencies involved. For example, Alameda County (CA) uses a written agreement titled, “Guidance Document on Hazardous Materials Investigation” to identify the roles and responsibilities of each agency involved in hazardous materials offenses (National Institute of Justice, 1993). Detective Haggerty agreed with the need for police departments to establish written protocols in order to define the role and responsibilities of each department or agency involved in environmental crime enforcement (Personal communication, October, 2002).

Having established the benefits of having law enforcement personnel involved in environmental crime enforcement, the need to have better quality communication between civilian regulators and law enforcement personnel, the need to establish the role of regulatory, law enforcement, and prosecutorial entities, community leaders must consider what form of enforcement model is best for the community. There is no magic formula for the creation of environmental enforcement units. Political entities tend to formulate differing regulatory, enforcement and investigative programs based on the needs of their jurisdiction. For instance, Dallas, Texas has established a multi-agency unit staffed by Dallas Police officers, civilian code

and environmental regulators, and prosecutors from the Dallas County District Attorney's Office. The City of San Antonio created a separate Code Compliance Department to which seven SAPD officers and 38 civilian employees are assigned. Under the San Antonio program, civilians focus on abandoned vehicles, sub-standard housing while the police officers concentrate on illegal dumping. The officers also provide education programs to middle and elementary schools and to neighborhood associations (Reed-Stowe & Co., 1999). The City of Houston, Texas created its illegal dumping program in 1992 with a grant from the TCEQ. Officer Steven Dicker of the Houston Police Department reports that agency's Environment Investigation Unit does investigations such as water pollution, chemical dumping and air pollution. The Differential Response Team consisting of one sergeant, five officers and five civilian investigators conducts solid waste enforcement. 'Store Front' (community policing) officers are also trained in solid waste enforcement. (Personal communication, November 19, 2002)

Planners must begin by identifying the resource level and current missions of the agencies involved in enforcement (Clifford, 1998). In 1999 Reed-Stowe & Co. prepared a document for the Houston-Galveston Area Council Community and Environmental Planning Department setting out specific steps political jurisdictions can use to develop or reorganize environmental enforcement programs. In their document titled *How to Establish and Operate An Environmental Enforcement Program*, Reed-Stowe & Co. identified five key elements associated with the development of an effective environmental enforcement program. These include: Political Buy-in / Planning, Management Structure, Education, Enforcement and Prosecution, and Cleanup (Reed-Stowe & Co., 1999).

Among the key job positions of any environmental enforcement program is that of Environmental Enforcement Officer (EEO). Although the Reed-Stowe report states there are

varied examples of where the EEO is placed in the program structure, the basic duties of this job described in the Reed-Stowe report are those of a law enforcement officer. The job responsibilities include the education of the public and other law enforcement officers, response to illegal dumping complaints and investigation of illegal dumping crime scenes, patrolling areas known to sites for illegal dumping, ability to testify in court, conducting surveillance of suspected criminal activity, obtaining and serving civil and criminal subpoenas, arresting and interviewing suspects, remaining up-to-date concerning applicable environmental and criminal laws, and the ability to complete activity reports to the TCEQ (Reed-Stowe & Co., 1999). The report goes on to recommend the employment of commissioned peace officers to investigate environmental crimes over the use of civilian regulators alone. The sight of uniformed officers lends credibility to the program and underscores the community's commitment to environmental crime enforcement (Reed-Stowe & Co., 1999). The Reed-Stowe report goes on to recommend that the EEO position should be a full-time position dedicated to environmental law enforcement. The authors cite their experience is when the EEO's responsibilities are divided among other duties, the environmental enforcement program suffers (Reed-Stowe & Co., 1999). A prime example of this is the incident involving Detective Haggerty cited previously in this paper.

Training for environmental enforcement officers is highly detailed and specialized. The field of Environmental Crime Enforcement is too complicated for investigative generalists to master. Detective Cathy Haggerty strongly recommends that investigators be certified by the U.S. Environmental Protection Agency. This certification would qualify the investigators to investigate everything from illegal dumping to hazardous material violations. Personnel designated as environmental enforcement officer should be assigned to units that specialize in environmental crimes investigations in order to ensure continuity as personnel in the unit are

rotated out of the unit (Personal communication, October, 2002). For example, the Austin Police Department does not currently have a unit dedicated to environmental crime enforcement. When Detective Haggerty's duty assignment was changed and no one assigned to replace her, the knowledge and experience she had gained as an EEO was effectively lost to the Department. Lt. Sean Mannix made similar observations. Specialized environmental crime units provide their department with both expertise and specialized training. To obtain consistency in investigations and citywide uniform enforcement, departments need centralized or specialized environmental crime units (Personal communication, October, 2002). Law enforcement officers, both on the state and local levels, should receive courses in environmental crime detection and enforcement as part of their basic academy curriculum (Clifford, 1998). Melinda Mallia, Environmental Project Manager for the Travis County Transportation and Natural Resources Department, suggests that police departments train all officers to recognize environmental crimes and to report them. Mallia recommends that community police officers should have a higher level of training in dealing with environmental crimes due to the fact they are more likely than patrol officers to receive complaints involving code and environmental violations. However, Mallia emphasized the need to have investigators assigned to a specialized unit to support detailed and long-term environmental crime investigations (Personal communication, October, 2002).

Another element key to the success of any environmental enforcement program is the relationship between the EEO and prosecutors tasked with prosecuting environmental cases (Reed-Stowe & Co., 1999). The relationship between EEO and prosecutors is enhanced when the EEO is a law enforcement officer who is by profession and training familiar with the requisites of criminal investigation, the laws of arrest, search and seizure, etc. In the case of cities that do not include environmental enforcement officers or investigators as part of their

investigative tool bag, the relationship between EEO and prosecutor cannot exist. Travis County Assistant County Attorney Neal Kucera stated that the key to a successful environmental crime enforcement program is for police departments to have a specific person or unit responsible for environmental crime investigations (Personal communication, October 22, 2002).

CONCLUSION

American police agencies continue their transition from the Professional Model of policing to a Community Policing management model. In doing so,

“American police leaders have the opportunity to take on the formidable task of transforming their agencies to bring them in line with the current management theory and with the Problem Solving Model... Agencies that provide the best, most innovative and most effective product will be the most successful.” (Henry, 2002, p. 159)

One very important component of any successful police agency that advocates community policing through the Problem Solving Model is environmental crime enforcement. Although unit specialization is a hallmark of the Professional Model of policing it is not necessarily in conflict with the Community Policing model. It is an important function of upper management under the Community Policing model to determine which processes and functions should remain centralized or specialized (Henry, 2002). By including the enforcement of environmental laws to their enforcement toolbox, police agencies can more effectively accomplish their missions of fighting crime and providing a better quality of life to their communities.

The design local environmental crime enforcement units will take should be tailored to the needs of the local community. Research revealed that law enforcement agencies should develop enforcement models that include general enforcement training for patrol-level officers. In order to display a commitment to environmental crime enforcement, law enforcement

agencies must supplement patrol-level training with increased training for community policing units *and* by the creation of specialized investigative units. Failing to commit resources for follow-up criminal investigations sends a message that the agency is not truly committed to this type of criminal enforcement. Officers will quickly realize that their reports and efforts in the field are not being followed up for prosecution. Once officers recognize this, the motivation to make the initial enforcement effort will be lost.

There is an unambiguous desire among civilian regulators for law enforcement officers to be trained to conduct and assist in environmental crime investigations. The resources to train, educate, and support environmental enforcement units in local police agencies are largely supported by state and federal agencies. To a lesser degree, equipment may also be available from these same state and federal agencies in the form of grants. The desire and ability to prosecute environmental and code offenders already exists in many jurisdictions. What is needed is a commitment by local law enforcement agencies to create and sustain dedicated enforcement resources for environmental crime and code enforcement.

REFERENCES

1. Brewer, Wayne (1995). Traditional Policing and Environmental Enforcement. *FBI Law Enforcement Journal*, 64 (5), 6-13.
2. Capitol Region Solid Waste Enforcement Task Force (RETF) (1996). Interlocal Assistance Agreement, Regional Solid Waste Enforcement Task Force.
3. Clifford, Mary (Ed.) (1998). *Environmental Crime - Enforcement, Policy and Social Responsibility*, Gaithersburg, MD: Aspen Publishers, Inc.
4. Deatherage, Scott D., (2002). *The Thin Green Line: When is An Environmental Violation a Crime?* Retrieved June 26, 2003, from <http://www.tklaw.com>.
5. Foreman, Barbara (1995). *Criminal Environmental Law Enforcement*. Unpublished administrative research paper, Bill Blackwood Law Enforcement Management Institute of Texas, Sam Houston State University, Huntsville, TX.
6. Hammet, Theodore M. & Joel Epstein. *Prosecuting Environmental Crime: L.A. County*. Retrieved May 22, 2003, from <http://www.lectlaw.com/files.env19.htm>.
7. Henry, Vincent E. (2002). *The Comstat Paradigm: Management Accountability in Policing, Business and the Public Sector*. Flushing, NY: Looseleaf Law Publications.
8. Ockels, John (2002). *Stopping Illegal Dumping Is Up to Us*. Retrieved June 26, 2003, from <http://www.ktb.org/programs/IllegalDumping.pdf>.
9. Ockels, John H. (2001). *Local Control of Illegal Dumping*. Pottsboro, TX, Little Mineral Press.
10. National Institute of Justice (1993, June). *Local Prosecution of Environmental Crime* (Publication No. OJP-89-C-009). Washington, DC: Government Printing Office.
11. Reed-Stowe & Co. (1999). Houston-Galveston Area Council, Community and Environmental Planning Department, March 1999. *How to Establish and Operate An Environmental Enforcement Program*. Retrieved June 26, 2003, from <http://www.rsylc.com>.
12. Texas Natural Resources Conservation Commission (TNRCC) (2001). Texas Environmental Enforcement Task Force Report to the Task Force Member Agencies. Retrieved June 26, 2003, from http://tnrc.state.tx.us/admin/topdoc/011_01.pdf.
13. Wilson, James Q. & George L. Kelling (1982, March). Broken Windows. *The Atlantic Monthly*, 249 (3): 29-38.