
LOCAL ENFORCEMENT: A FUNDAMENTAL COMPONENT OF ENVIRONMENTAL COMPLIANCE

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SUMMARY

As this Fifth International Conference on Environmental Compliance and Enforcement commences, one might ask what a local government official could possibly contribute. After all, national governments set standards for environmental protection and for the health and safety of their citizenry. They pass laws and regulations in accordance with those standards, and design mechanisms to enforce their laws. And remarkably, they join together in this decade to develop international policies and programs which will protect the global community in the next millennium.

As articulated by the Executive Planning Committee, "this Fifth Conference focuses on action: making enforcement and compliance happen." On that particular topic, local regulatory agencies, local law enforcement officers, and local prosecutors have much to contribute.

This paper is about criminal enforcement. It describes the experience and evolution of one local prosecutor's office in prosecuting environmental crime. A companion paper, by Steven C. Drielak, draws on his fifteen years of conducting criminal environmental investigations in that office. Excerpted from his recently published textbook, it describes the role of the environmental investigator and some of the methods used to identify and prove environmental crimes. A second companion paper, by James H. Pim, explains how a local government succeeded in creating and implementing one of the first, and most comprehensive environmental programs in the United States.

Together, these papers deliver one clear message: Local government can make enforcement and environmental compliance a reality.

1 LEVELS OF CRIMINAL ENFORCEMENT IN THE UNITED STATES

The United States Department of Justice has the responsibility for prosecuting criminal violations of federal environmental laws. Those federal crimes are generally investigated by the Criminal Investigation Division of the United States Environmental Protection Agency.

Most of the fifty states have criminal penalty provisions in their state environmental laws. Most individual States Attorneys General, in addition to civil enforcement power, have statewide jurisdiction to prosecute criminal violations of those laws.

Each state is politically subdivided into counties. Each county falls within the jurisdiction of a local prosecutor, generally known as a District Attorney or State's Attorney. The local prosecutor has primary responsibility for prosecuting crimes committed within the jurisdiction. Local prosecutors are charged with prosecuting crimes ranging from murder, robbery and rape to drug trafficking, shoplifting and drunk driving.

As locally elected or appointed officials, these District Attorneys are the prosecutors who are most in touch with the communities in which they work and reside. They have the discretion to direct their investigative and prosecutorial resources to prevent and punish targeted types of criminal conduct. Responding to citizens' concern about environmental quality, increasing numbers of local prosecutors have redirected their limited resources to prosecuting criminal violations of state and local environmental laws.

In many situations where an environmental crime has been committed, federal, state and local prosecutors may all have concurrent jurisdiction to prosecute. For practical and legal reasons, a prosecution by more than one level of government for the same act is very unusual.

2 SUFFOLK COUNTY, NEW YORK

Suffolk County, one of 62 counties in New York State, is located 50 miles from New York City, comprising the eastern two thirds of Long Island. With a thousand miles of coastline, it is known for its beaches, rural farmlands, commercial fisheries and in recent years, wineries. Large segments of the county are heavily industrialized, and its population of 1.3 million live mostly in middle income suburban communities.

The county sits atop an aquifer which supplies all of its drinking water. Most of the county has no municipal sewage treatment system. Residential and commercial waste is flushed into individual leaching pools which potentially threaten the water supply.

3 SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE

In the early to mid 1970s, environmental awareness was being raised in Suffolk County as it was across the nation. The County Legislature experimented with some local laws to protect the environment, including a ban on washing machine detergents in the county. The Suffolk County District Attorney's Office shared the concern of county residents about protecting its drinking water supply and the overall environmental quality. In a series of criminal cases, the office commenced prosecutions under then weak state laws. An air pollution prosecution against the local power company ended direct criminal enforcement by the office. In 1976, the appellate courts ruled that only the state Attorney General had the jurisdiction to enforce state environmental laws.

While prohibited from directly enforcing environmental laws, the District Attorney's Office on occasion prosecuted environmental offenders for violating traditional criminal laws in the course of harming the environment. Those traditional crimes typically included falsification of documents and other acts of deceit in dealing with regulatory agencies.

In 1980, the New York State legislature amended the state environmental law to give District Attorneys specific jurisdiction to prosecute environmental crimes. Over the next several years, it systematically added felony provisions to the law. The Suffolk County District Attorney's Office was back in the environmental enforcement field.

As criminal complaints increased, the need for a staff dedicated to environmental crime became apparent. In 1984, then District Attorney Patrick Henry appointed an assistant district attorney and a detective investigator to work full time on environmental cases. A year later, the Suffolk County Police Department added a second full time police officer to the team.

Using their knowledge of criminal investigative techniques and traditional prosecutorial powers, the team identified key people who could help them. The county health department, with its five years of enforcement history, proved the biggest permanent asset. State environmental investigators worked jointly on the earlier cases. By 1989, Suffolk County was responsible for a full third of all criminal hazardous waste prosecutions being brought in the entire state of New York.

In 1990, newly elected District Attorney James M. Catterson, Jr., took the steps that brought Suffolk County to the attention of the rest of the country. He established the Environmental Crime Unit as an independent bureau in his office, and appointed a bureau chief with extensive experience in complex investigations and undercover operations. He issued a mandate to engage in proactive, aggressive prosecutions and backed it up with the resources necessary to do so. He challenged his staff to become involved with environmental enforcement and professional training on a national level, bringing what they learned back home and applying it in Suffolk County.

4 TYPICAL ENVIRONMENTAL CRIME PROSECUTIONS IN SUFFOLK COUNTY

4.1 "Midnight Dumping" Cases

Plating operations, circuit board manufacturers, printers, automotive repair shops, and other generators of hazardous waste may avoid the cost of lawful disposal by illegally dumping 55 gallon drums of toxins in wooded areas and quiet roads. Because such incidents usually occur at night to avoid detection, they are referred to as "midnight dumping." It was a common occurrence in the 1980s.

Using traditional criminal investigative techniques, investigators learned to trace those drums back to the source the same way a homicide investigator uses forensic evidence from the body of a murder victim and the surrounding crime scene to find the killer.

Fingerprints from drums and discarded debris, tire castings, footprints, partial labels, coded identifiers on the drums, document analysis to "raise" faded writing on shipping labels, and other clues found at the scenes are the necessary first step in any "midnight dumping" investigation. There is only one difference between how the homicide crime scene and the environmental crime scene are handled in Suffolk County. The environmental investigators, with their entire forensic team, perform evidence gathering tasks encumbered by personal protective equipment, including air tanks and masks, to protect them from the unknown, potentially lethal contents of the drums. Scores of defendants have been convicted of dumping hazardous waste in Suffolk County, many of them jailed.



Figure 1 Health Department members of the Hazardous Material Response Team draw samples of the contents of these 55 gallon drums, which were abandoned near a commuter railroad station

Legitimate businesses are not the only ones that dump illegally. One series of dumping incidents along the Long Island Expressway, a major east-west thoroughfare, led to an unexpected source. A partial fingerprint in discarded debris identified a suspected drug dealer from Columbia. The drums, which contained a variety of solvents, were tested and found to contain cocaine. The resulting multi-agency investigation, utilizing high tech surveillance and court authorized telephone wire taps, led to an illicit cocaine manufacturing operation in a secluded home located within an exclusive Suffolk County community. Without the methodical environmental crime scene work, the narcotics investigation would never have commenced, and the drug manufactures would not be in prison.

The “midnight dumping” trend in the second half of this decade involves the use of stolen forty-foot truck trailers. Filled with drums of hazardous waste, trailers are abandoned in industrial parks or warehouse centers where they may go unnoticed for long periods of time. With proper crime scene work and tenacious police investigations, the dumpers are invariably caught—even when efforts have been made to scrape identifying labels off the drums and Vehicle Identification Numbers off the trailers.

In late 1995, 120 drums of hazardous waste were discovered by a Suffolk County company when it recovered a trailer which had been stolen from its facility. The waste was traced to a factory in Detroit, Michigan, a thousand miles away. Two of the people involved served time in the Suffolk County jail. They received reduced sentences for cooperating in the prosecution of the people who had hired them to illegally remove the waste and transport it across state lines. As the investigation unfolded, it was learned that the company which

generated the waste had gone out of business. The bankruptcy court held all of the company's assets. The owners of the building told the court that hazardous waste had been left there, and received \$50,000.00 from the bankruptcy court to properly dispose of it. They made a handsome profit by instead paying \$10,000.00 in cash to get rid of the waste illegally.

In another case, an abandoned trailer containing over 200 drums and containers of hazardous materials posed an extraordinary challenge to investigators. The perpetrators had obliterated virtually all of the labels and other identifiers from the containers and the trailer itself. Painstaking forensic work and tireless investigative efforts ultimately led to the source of the waste product, a company doing business in the adjoining county. A full year into the investigation, a worker was located who had helped scrape the labels and load the trailer. He dropped a bombshell: a second stolen trailer, filled with similar materials, had been dumped in an adjoining state. That case had never been solved by the investigating agency in that jurisdiction.



Figure 2 When this stolen truck trailer was opened by commercial tenants in an industrial park, some of the containers fell to the ground. More than 200 drums and containers were found inside with most of their labels scraped off.

As the investigation continued—now, a multi-jurisdictional effort—the reason the second case had not been solved became immediately apparent to the Suffolk county team. While sampling and analysis had been performed on the contents of the containers in the second trailer, the trailer had not been treated as a “crime scene.” The handling of the trailer and its contents was geared toward identifying and properly disposing of the waste. The cost borne by government to lawfully accomplish that goal was several hundred thousand dollars.

A criminal investigation had been commenced by appropriate law enforcement agencies to apprehend the responsible parties, but in terms of any physical clues, it started too late. Neither law enforcement officers nor criminal forensic teams had examined the trailer. The

type of evidence which would have been sought had the trailer contained stolen property or dead bodies never played a part in the investigation. As a result, the investigation into the second trailer had ground to a halt.

The evidence from the Suffolk County trailer, and the investigation developed from it, changed that. The cooperative investigative effort led to convictions on both cases. Hundreds of thousands of dollars were paid in fines and restitution for the cleanups. And every corporate officer was sentenced to jail and/or federal home detention.

The absence of "crime scene" work on the second trailer is typical throughout most of the country. It is even typical among law enforcement agencies which specialize in environmental crime. Handling of hazardous material without proper training and equipment is more than unsafe. It is illegal.

The most important lesson that local law enforcement can contribute to environmental investigations is this: To solve a dumping crime, the investigating police personnel must enter the crime scene, and do the things that police are trained to do. They must look for clues. That means that they must be trained in a whole new field. They must become trained and equipped to handle hazardous materials.

Many believe that trained regulatory personnel can do what is necessary for a criminal case. But it is much easier to train a police officer to handle hazardous materials, than to train a hazardous material handler to do police work. The companion paper of Det./Lt. Steven C. Driolak, Commanding Officer of the Suffolk County Environmental Crime Unit, addresses this issue.

4.2 "On-site" Dumping Cases

Developing environmental regulations, educating the regulated community, and bringing companies into compliance is a long process. Criminal prosecution only makes sense when laws are in place, when people know they exist and have been given an opportunity to obey those laws.

In Suffolk County, a comprehensive law governing handling and storage of hazardous and toxic materials has been in place since 1979. The issue of pollution was at the forefront of public concern in the county since the early 1970s. James H. Pim, Chief of the Suffolk County Health Departments Office of Water Resources, was a moving force behind the County law. His companion paper, "An Enforcement Program That Works—Toxic and Hazardous Materials Management in Suffolk County," describes the enactment and implementation of that law.

Felony sanctions for illegal storage, transportation and disposal of hazardous waste were introduced under the New York State Environment Conservation Law in the early 1980s. Suffolk County's own education, compliance and enforcement program made criminal enforcement under state law possible from the outset. Companies caught illegally disposing of hazardous waste "on-site" in Suffolk County could not claim ignorance. Releasing any hazardous materials into the environment, whether or not it was hazardous waste, had long been prohibited. In virtually every instance, prosecutors had a "paper trail" to prove that a criminal defendant knew that on-site disposal of hazardous waste was illegal.

In the mid 1980's, most "on-site" dumping cases were direct referrals from the Health Department. Second or third time offenders in the regulatory arena became first time offenders in criminal court. The shock of a criminal prosecution in a single case was believed by regulators to have a deterrent effect on other companies. Publicity was seen as very important; in some cases, criminal defendants paid for advertisements in newspapers as part of their sentences.

**POLLUTERS
GO TO JAIL**

**DO NOT DUMP CHEMICAL
POLLUTANTS IN SUFFOLK COUNTY**

MY BUSINESS DISCHARGED CHEMICAL POLLUTANTS TO THE ENVIRONMENT IN SUFFOLK COUNTY IN VIOLATION OF NEW YORK STATE AND SUFFOLK COUNTY ENVIRONMENTAL LAWS.

NOW I HAVE BEEN PROSECUTED FOR THESE OFFENSES BY THE SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE AND THE SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES, OFFICE OF ENVIRONMENTAL POLLUTION CONTROL.

MY CORPORATION HAS BEEN CONVICTED OF A FELONY CRIME, FOR POLLUTING THE ENVIRONMENT, AND FINED \$50,000. MY VICE PRESIDENT AND I HAVE BEEN SENTENCED TO JAIL.

MY PURPOSE IN PLACING THIS AD IS TO ADVISE OTHER BUSINESSES NOT TO POLLUTE THE ENVIRONMENT.

IF YOU KNOW OF INCIDENTS OF ILLEGAL DUMPING OF HAZARDOUS MATERIALS IN SUFFOLK COUNTY, YOU SHOULD REPORT THIS INFORMATION TO:

**THE SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES, OFFICE
OF ENVIRONMENTAL POLLUTION CONTROL, (516) 451-4633.**
OR
**THE SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE,
ENVIRONMENTAL CRIME UNIT, (516) 360-5232.**

Wallace Fellows
President, Chemical Processing Corp.

Figure 4 Criminal defendants sometimes pay to place an advertisement in a local newspaper. Messages like this one help to deter other businesses from committing similar crimes. There is usually an increase in citizen complaints as a result

As the public became more sensitive to environmental problems, a slightly different type of "on-site" dumping case grew more common. The Health Department referrals had always involved companies which had been "caught" by the system. The new cases were ones in which companies had avoided detection, and serious illegal activity had not been noted during routine Health Department inspections. Those cases were developed using a traditional law enforcement tool—informants.

Factory employees, contractors, sales people who witness violations, and even relatives have reported business operators that illegally dump waste. On-site dumping cases commonly involve hidden piping systems which discharge into unauthorized leaching pools or

storm drains. When necessary, investigators bring in county excavation equipment to unearth evidence during a criminal search warrant. The Department of Public Works has a list of its heavy equipment operators who happen to be hazardous material trained. In keeping with safety requirements, those are the only workers who can assist with excavation at an environmental crime search warrant.



Figure 3 In connection with a regulatory enforcement action, this facility had been forced to cap a pipe that was used to discharge hazardous waste into a leaching pool. When a criminal search warrant was executed years later, investigators saw that the interior discharge pipe was still being used. The parking lot was excavated. Investigators discovered that a new pipe had been added, diverting the hazardous waste to a new, illegal leaching pool

In one early case, company owners had dug up the concrete floor of their factory and installed a bottomless holding tank. The floor was replaced, leaving a four inch access hole. The hole was plugged with concrete. During the week, when the full complement of employees was working, hazardous waste was held in storage containers. Those storage containers complied with county laws, and raised no suspicion with Health Department Inspectors.

On weekends, the concrete plug was removed, and the hazardous waste was pumped into the underground tank. A bag of ready-mix concrete was produced; the drain was plugged again; a utility cart was slid over the top of it. When the employees returned to work on Monday, the hazardous waste had been “picked up.” It was business as usual as the waste slowly leached into the ground and the sole source aquifer below it. Criminal investigators executing a search warrant caught the owners in the act of dumping the waste.

Another common type of on-site case involves abandonment of a facility by the owners. Certain types of facilities can pose grave threats to the community. Electroplating, for example, may generate acutely hazardous cyanide waste. When the economy is bad, government sees increasing numbers of abandoned factories.



Figure 4 With the decline of the defense contracting industry on Long Island, many subcontractors simply closed their doors. Some left factories filled with hazardous materials. Environmental Investigators searching this facility came upon live military explosives. The bomb squad removed some and had to detonate others on site.

4.3 Undercover Investigations

In law enforcement, police often use undercover operations to apprehend criminals who might not otherwise be caught. Police may pose as drug dealers to interdict major suppliers. They may set up a fake "fencing" operation to buy stolen vehicles or proceeds from burglaries. They may pose as street criminals to purchase illegal handguns.

By 1990 it was general knowledge among law enforcement that some businesses hire unlicensed waste transporters to illegally dispose of their hazardous waste. Savvy businesses mix their disposal practices. They pay for lawful disposal of some portion of their waste stream, maintaining a paper trail which can be shown to government officials. The rest of the waste is disposed of illegally, at greatly reduced rates.

From a traditional law enforcement perspective, it would make sense to have police officers pose as unlicensed waste transporters and catch defendants in the act of violating hazardous waste laws. Concerns about safety, transportation, disposal and liability in the handling of hazardous waste had always kept law enforcement from engaging in undercover operations in this field.

In 1991, the Environmental Crime Unit was put in contact with an individual who worked in the environmental services industry. Having been convicted of an environmental crime himself, he was willing to work with law enforcement on investigations in return for a reduced sentence. The informant identified a list of specific companies within the county that routinely disposed of hazardous waste through illegal sources. He was willing to approach those companies to take over their illegal waste disposal, introducing an undercover police officer as a "partner."

The resulting operation was labor intensive for investigators, forensic teams and prosecutors. The fictional "partner" was really an experienced detective who routinely worked undercover to buy weapons or stolen property. The "laborers" who loaded 55 gallon drums of hazardous waste onto trucks for removal were really Environmental Crime detectives, trained in the handling of hazardous materials. Transactions were recorded on hidden video cameras. It would be months before the unwitting defendants learned that they had paid money to police officers.

When the "laborers" left the site of generation, they brought the drums to a secure facility. There, they were treated as criminal evidence. Working under tight security, the investigative team photographed and dusted the drums for fingerprints. The drums were sampled by the county sampling team and then safely stored until laboratory analysis was complete.

Criminal law usually requires the preservation of evidence for a defendant's inspection. This requirement posed a significant legal problem, which had been evaluated before the operation even began. Police and prosecutors knew that if any defendants were arrested, the undercover operation would be revealed. No further cases would be developed. The accumulating waste from different sources could not be safely stored until the end of the investigation unless a licensed storage facility was utilized. That would have compromised the integrity of the investigation.

When laboratory analysis on each case was complete, prosecutors obtained a secret court order to authorize lawful disposal of the waste. Environmental crime investigators loaded the drums onto trucks, and the District Attorney's Office paid a licensed facility to dispose of them. That significant expense was recouped from the defendants as part of their criminal sentences.

The operation concluded with arrests and criminal charges against about ten defendants. It was widely reported in the media as the first successful hazardous waste sting operation in the country. Agencies from around the country have studied the Suffolk County operation. Written operations plans have been duplicated and investigators and prosecutors have readily shared the lessons learned in the operation. County and state prosecutors and investigators throughout New York State have since conducted hugely successful operations, targeting a variety of industries. Scores of business operators who illegally dispose of hazardous waste have been prosecuted as a result.

This type of operation can bring favorable publicity to an agency and have strong deterrent effect on industry. Legitimate businesses, bearing the costs of lawful waste disposal, generally support these efforts. When their competitors use cheaper, illegal disposal methods, they have an unfair competitive advantage.

Any discussion of undercover hazardous waste cases must come with a strong warning. No such activity should be undertaken without review by police and prosecutors experienced in undercover work. Aside from physical safety issues, the legal issues are so complex that poor planning can lead to dismal failure. Targeting of legitimate businesses, with unsuccessful legal results, can cause political reactions which might impede all future enforcement activity.

More recently, Suffolk has been utilizing undercover techniques to catch illegal dumpers, instead of business operators. Informants introduce suspected dumpers to undercover police officers who say they are looking to illegally dispose of their waste. Fifty-five gallon drums containing innocuous liquids are labeled with poison stickers and hazardous waste labels which identify the contents as acutely hazardous cyanide waste. In recorded conversations, investigators make it clear to targets that the waste is hazardous. To make sure that targets are not unwittingly involved in illegal activity, the undercover officers express concern about being arrested if they are caught by police.

In two recent cases, the defendants who were paid to remove waste dumped the drums in secluded areas within an hour of taking them away. One defendant kept his 15 year old grandson home from school and paid him fifty dollars to help remove the drums and dump them off the truck in a residential community.

4.4 Environmental Fraud

The creation of environmental programs has given rise to a burgeoning environmental services industry. Environmental consultants, transportation, storage and disposal facilities and laboratories provide the services necessary for the regulated community to comply with laws. Virtually every business uses subcontractors to perform some portion of the work.

The experience of law enforcement tells us that where there is money to be made, unscrupulous individuals will be drawn into the market. As legitimate businesses complain about increasing costs of environmental compliance, law enforcement recognizes that some portion of the increase is due to fraud.

Fraud in the environmental industry takes many forms. Victims and perpetrators alike are found in every sector: manufacturers, waste generators, transportation/storage/disposal facilities, government, parties to real estate or business transactions, lenders, environmental consultants, and the general public.

In Suffolk County, the Environmental Crime Unit prosecutes all business fraud or "white collar crime" cases which impact the integrity of the regulatory system. Investigators and prosecutors who specialize in environmental crime are much more likely to spot irregularities which may indicate the presence of fraud.

5 COUNTY RESOURCES

Suffolk County's Hazardous Material Response Team is comprised of four groups, each of which performs a specific function. The entire team is on 24 hour call, and works together at all environmental search warrants or crimes scenes where a "midnight dumping" as occurred.

5.1 Environmental Crime Unit Investigators

Environmental Crime Unit investigators are police officers who work full time in the unit. They are trained and certified in the handling of hazardous materials, and are provided with personal protective equipment necessary to enter hazardous waste sites. As members of the Response Team, they are in complete charge of any crime scene. They direct the work of other members of the team, applying criminal evidence gathering standards to assure that evidence will be sufficient to support a criminal prosecution.

5.2 Suffolk County Police Department Emergency Services

Police Officers assigned to the Emergency Services Section of the Suffolk County Police Department are the “safety officers” at any environmental crime scene. Hazardous material experts, they are also certified to handle confined space entry, rescue, decontamination and medical emergencies. They make the final determination about required levels of personal protective equipment to be used for particular tasks, monitor health of the Team, and stand as a backup team should members suffer an exposure to hazardous materials.

5.3 Suffolk County Health Department Sanitarians

Suffolk County Health Department Industrial Sanitarians inspect local businesses for compliance with the County’s environmental laws. They sometimes refer repeat offenders to the District Attorney for criminal investigation where the regulatory system has failed. As members of the Hazardous Material Response Team, they are trained and equipped to handle hazardous materials, and are certified by EPA as environmental samplers. At an environmental crime scene or search warrant, the sanitarians perform sampling operations under the direction of the detective assigned to the case.

5.4 Suffolk County Public & Environmental Health Laboratory

The Suffolk County Public & Environmental Health Laboratory is one of the largest, most comprehensive county operated facilities in the country. Fully certified to perform analysis on almost all types of environmental samples, it also performs routine water quality and air quality analysis to support regulatory programs. Forensic scientists from the laboratory, trained and equipped to handle hazardous materials, are members of the Hazardous Material Response Team. They are the “science officers” at all environmental crime scenes and search warrants. In addition to expert advice, they provide all necessary sterilized and prepared sample bottles. They assure that methods utilized at the scenes comply with EPA standards and that there is no cross-contamination of samples. They preserve and take physical custody of samples at the scene, and transport them to the lab where they are analyzed.

6 ADDITIONAL RESOURCES

In addition to prosecuting cases investigated by its own detectives, the Environmental Crime Unit works with criminal investigators from the New York State Department of Environmental Conservation. Cases investigated by the New York State Department of Environmental Conservation may be similar to those handled by the District Attorney’s Office, or may arise out of wholly different regulatory programs, such as commercial fisheries or wildlife protection laws. The Department has its own technical team, though the investigators may utilize

the County's Hazardous Material Response Team in cases where the resources are necessary. Investigators also provide backup to Environmental Crime Unit investigators on labor intensive cases, or work jointly on investigations.

The New York State Attorney General has jurisdiction concurrent with the 62 District Attorneys to prosecute environmental crime. As a practical matter, criminal investigators in that agency direct most of their resources to counties which do not have active environmental crime units. Where appropriate, cases are investigated or prosecuted jointly. Cases are referred between the agencies where one or another office is better suited to handle them. Lines of communication are kept open to avoid duplication of effort and waste of resources among the offices.

The Criminal Investigation Division of the United States Environmental Protection Agency has Special Agents assigned to cover the region in which Suffolk County is located. The two agencies conduct joint investigations where appropriate, and readily provide investigative assistance or backup on their respective cases.

A wide variety of other federal, state and local law enforcement agencies refer cases or work jointly on investigations from time to time.

7 COUNTY-WIDE COMMITMENT AND KEYS TO SUCCESS

The success of the Suffolk County District Attorney's Environmental Crime Unit is built on a wide variety of factors. A key factor is that the working teams, now written into County law, were built from the bottom up. The commitment of county workers from various agencies was a personal one. The county did not formalize protocols until long after they had been informally established.

The individual initiative of Steven C. Drielak in developing criminal investigative protocols for hazardous waste cases set the standard for all future work. The increasing leadership of experienced prosecutors, rather than civil environmental lawyers, assured that cases were developed utilizing the full power of the criminal justice system. It also assured that cases would be presented in court as serious crimes, not technical civil cases.

The County Health Department's comprehensive environmental program became a firm foundation for criminal enforcement in the county. Its conception and development must be credited to a handful of Health Department employees, among whom James H. Pim was a key participant. Its implementation was, and is, a credit to all the employees in the Department.

The County's Environmental Laboratory gives the Environmental Crime Unit an edge over other prosecutor's offices. The participation of forensic scientists during crime scene work assures that evidence gathering work of the Hazardous Material Response Team is of the highest caliber. Other law enforcement agencies may have to limit sampling work, because their scientific analysis is performed by contract laboratories which are paid from a limited budget. Suffolk County does not face that problem. The laboratory director, Kenneth C. Hill, is sought for expert advice by prosecutors nationwide. Within the County, his professional input is part of the routine.

The rules and procedures of the Suffolk County Police Department require that an officer responding to a call regarding hazardous materials take actions to protect the public. They also require that any site at which suspected hazardous materials have been abandoned be preserved as a crime scene. The officer must prevent anyone from walking through potential

footprints, tire tracks, removing or leaving physical evidence, or smearing fingerprints. That procedure, and the notion that hazardous waste dumping is a crime which can be solved, is a key element in solving such crimes.

The County's Hazardous Material Response Plan, adopted in accordance with federal law, is unusual in one respect. It incorporates within it a provision for a criminal investigation when the hazardous material incident is non-accidental. It provides for notification of Environmental Crime Unit investigators. It requires that control of the scene be turned over to them once any health threatening conditions or active discharges have been contained. By including that provision, the County made the apprehension of intentional polluters an official goal of county government.

8 THE ROLE OF THE COMMUNITY

The final observation regarding Suffolk County's success relates to its citizens. From the early 1970s, they pushed their local government to protect them, to protect their environment, and to protect their water supply. The programs which grew in the county, on both a regulatory and law enforcement level, arose from the vocal concerns of the community.

It is probably fair to say that the residents of Suffolk County take local environmental enforcement for granted. They should. Nothing about our programs is viewed as unique, and our criminal cases are accepted as routine.

Because local government can respond quickly to its community, in this case it did. Without models from other jurisdictions, the individuals employed within various agencies simply did their best. They sought input from others. They applied their own knowledge, with a strong dose of common sense. And they maintained their flexibility to respond to changing conditions.

Returning to the articulated theme of this Fifth Conference, the lesson learned in Suffolk County has broad application. Individuals in local agencies can take action. In their own jurisdiction, a few good people truly can make enforcement and compliance happen.