
ENVIRONMENTAL POLICING IN THE 21ST CENTURY – BACKGROUND, ORGANISATION AND EXPERIENCE IN THE NETHERLANDS

WIJBENGA, BERT¹, RUESSINK, HENK², DE WIT, ARIE³ and
KAPITEIN, PIM⁴

¹ Chief Constable, Police Region Flevoland, The Netherlands, bert.wijbenga@flevoland.politie.nl.

² Senior Researcher/Lecturer, Police Academy of The Netherlands, henk.ruessink@politieacademie.nl.

³ Senior Advisor, Police Academy of The Netherlands, arie.de.wit@politieacademie.nl.

⁴ Chief Inspector, Southern Office of the General Inspection Service, The Netherlands, p.kapitein@minlnv.nl.

SUMMARY

The current organisation of the environmental enforcement function of the police in the Netherlands is sketched from an historical development perspective. Over the last few decades, the police had to respond to the growing concern in society over environmental issues, the expanding amount of legislation for the protection of environmental values, and the increasing role of domestic and international environmental crime. Furthermore, it was recognised that the fight against environmental offences is a multi-actor activity, where effective cooperation and exchange of information between police and other authorities is crucial.

These developments and considerations have led to an environmental policing function that is organised at four geographical levels: local, regional, supra-regional, and national. Each level has specific responsibilities, tasks, and competences. This structure has been in place since 2005. This paper describes initial results and experiences, as well as the needs identified for further improvements and developments. Although situations and circumstances in other countries with respect to environmental policing may differ in several aspects, elements of the structure presented in this paper are probably useful elsewhere.

1 INTRODUCTION

Police forces in the Netherlands were active in enforcing environmental laws in the 1950s. At that time, the main focus was on counteracting illegal and criminal activities in the area of hunting and poaching. At the same time, due attention was given to the connected phenomenon of illegal possession and use of firearms.

Later, toward the end of the 1970s, initiatives were taken to broaden and extend police control and enforcement activities, particularly in the area of the so-called “brown” environmental issues, such as noise, nuisance, emissions, and waste. At that time, the first more or less specialised entities for environmental policing appeared in the police force. These units continued to be active on the (traditional) “green” enforcement topics as well, and hence had a broad environmental profile. On one hand, their expertise and contribution to the protection of nature and environment was highly valued. On the other hand, there were voices that doubted the need for specialised units within the police, which were seen as expensive.

At the end of the 1980s, it was finally concluded that environmental enforcement should be just one of the general tasks of the police. This implied that each and every police officer should take up environmental enforcement as an integral element of his/her task and duties.

2 DECADE OF GROWING AWARENESS

The recognition that the police had to play an important role with respect to environmental enforcement followed the general awareness of environmental issues that came up in society in the late 1980s. Environmental scandals, serious environmental accidents, and alarming reports underlined that the environment was seriously at risk, and, along with this, the health of humans and nature were negatively influenced. Therefore, it was clear that proper action had to be taken. In fact, these developments underlined the importance of one of the articles of the Dutch Constitution, Article 21, which states that the care of the government is directed towards habitability of the country and the protection and improvement of the environment.

As an important milestone, the First National Environmental Policy Plan “Choosing or Loosing” was published in 1989. The protection of the environment became an issue for politics and society in general. In this plan, the government defined the nature and extent of the environmental problems and presented a policy and according regulation to protect and improve the quality of the environment. It was the task of the industry, the general public, and governments to implement the environmental policy. To realise this, these stakeholders had to develop appropriate knowledge, understanding, capacities and competences. This also refers to the authorities that were responsible for compliance control and law enforcement.

Although – in the Dutch situation – compliance assurance is primarily based on administrative law and sanctions by local, regional, or national administrations. However, in cases of serious offences enforcement by criminal law is also possible. The administrative and criminal law enforcement systems are to a large extent complementary. The police, together with a few specialised non-police services, are responsible for the criminal investigations (the public prosecutor’s office decides on criminal prosecution).

As a result of its growing awareness, the police had to start appropriate initiatives to take up its role in environmental enforcement. Policy papers with respect to issues of organisation, infrastructure, cooperation, and planning were prepared. Police forces invested in projects for training and capacity building of their officers. However, it is fair to say that the big reorganisation of 1993, which changed the system of one national and many municipal police forces into a system of 25 regional forces and one national service unit, initially had a negative impact on the effectiveness of the environmental police function. As a result of earmarked subsidies from relevant ministries, some organisational provisions kept up specific environmental enforcement expertise. Coupled with the personal dedication of many police officers to environmental enforcement, over time the situation improved again.

In general, environmental enforcement is only one of many tasks of the police. Hence, with limited resources there is always a competition for priorities. Along with the fact that the environmental task is not always perceived to be of high importance (*e.g.* because there are often (seemingly) no victims¹) and the belief that environmental enforcement is particularly complex, this leads to a situation where the police is not always very motivated to give sufficient priority to and invest in environmental investigations. Also, the circumstance that citizens generally do not report criminal environmental offences, contributes to this situation.

3 PREPARING FOR THE NEW CENTURY

The role and function of the police in environmental (criminal) enforcement became clearer around the Millennium. The underlying observations and considerations are as follows:

- For an integrated contribution to safety and quality of life, environmental enforcement has to be embedded in the total package of police functions/services in society at large. Small offences that are relatively easy to investigate and enforce, can be dealt with by officers that are active in general (community) policing. In case of more complicated and/or more serious offences, these officers should invoke the assistance of colleagues that are more specialised in environmental issues.
- For successful execution of their environmental tasks, police officers require relevant know-how and competences, adequate information and sufficient capacity. This implies that there needs to be effective training facilities, information systems and – not the least important – clear support from superiors and higher management, not only in wording, but also in acting. So, environmental enforcement requires dedication at all police levels.
- The police are often not the only player in the field of environmental compliance and enforcement. In The Netherlands, as in many other countries, other

organisations such as regional or local administrations have a role as well. For effective and efficient compliance and enforcement, the partner authorities have to work together and coordinate their activities. This refers to aspects like programming, sharing of information and mutual assistance. Today, to a certain extent, legal obligations for inter-agency cooperation are imposed.

- To arrive at a problem-oriented coordinated program for compliance assurance and enforcement, relevant authorities have to sit together and jointly produce an analysis of the state of the environment in terms of quality, developments, risks and the actual level of compliance. From this, a set of priorities for a programmed approach develops. The police should fully participate in this process on the basis of its own expertise, specific information and responsibilities.
- The police activities regarding environmental compliance and enforcement should be in connection with environmental policies, strategies and developments at different levels: local, national and international. In a world that continues its globalisation, all actors – including criminal investigators of the police – have to contribute to combat the negative environmental side-effects, *e.g.* those frustrating sustainable development. But also domestically, contributions are expected to protect the quality of the living environment. This implies that in environmental compliance and enforcement activities the attention of the police should be directed towards:
 1. the increasing pressure on the public space and vital functions which leads to physical and health risks and to an endangered natural environment;
 2. enterprises, institutions and civilians that operate in a calculating manner, trying to run away from their environmental responsibilities at the cost of others and the environment;
 3. criminal “entrepreneurs,” *e.g.*, in the area of waste treatment and disposal, international illicit trade in hazardous waste streams and trade in endangered species of plants and animals that have serious detrimental effects on public health, biodiversity and the environment.
- The “modus operandi” of environmental offences and crimes moves clearly in the direction of illicit operations in structures of chains and networks made up of dynamic flows of waste, recycled materials, products and information. No longer are such crimes of a merely local and straightforward character. In a globalising world, the complex international dimension of environmental crime is of growing importance. Opportunities for illegal operations are especially at stake when and where commodities are transferred from one player in a chain or network, to another, especially when substantial economic benefits can be gained. During these instances and at those places, risks for the environment and health of people are glooming. This implies that enforcement and criminal investigations have to be directed and tailored towards combating infringements and crimes that take place in the chains and networks of illegal actors. The intertwined nature of the underlying structures makes inter-agency cooperation a prerequisite for success.

4 IMPLICATIONS FOR THE ENVIRONMENTAL POLICE FUNCTION

Taking into account the above developments, observations and considerations, the environmental function of the Dutch Police was redefined and reorganised in the first years of the new century. The directly involved ministries of environment, interior, and justice played an important and decisive role in this. This was related to the fact that they are responsible on the political level for adequate enforcement of (environmental) legislation and had invested substantial amounts of money in the environmental task of the police and public prosecutors, which they wanted to give effective output and outcome.

Since the beginning of 2005 the criminal enforcement and investigation function of the police is organised at 4 distinct levels:

- *National level* – the National Investigation Service is responsible for dealing with severe organised environmental crime issues (or suspicions thereof), both in terms of intelligence and information analysis, as in terms of dealing with specific concrete cases. It cooperates with special criminal investigation services at four Ministries (Agriculture/Nature/Food Quality, Environment, Social Affairs and Finance).
- *Supra-regional level* – six so-called Interregional Environmental Teams are responsible for the criminal investigation of cases of serious environmental crime that manifest themselves across borders of individual police-regions and internationally, with a particularly focus on chain- or network-oriented criminal offences. The total capacity for the Interregional Environmental Teams amounts to approximately 120 full-time-equivalents.
- *Regional level* – each of the 25 police-regions in The Netherlands has its own Regional Environmental Team. These teams are responsible for the investigation of environmental crimes of intermediate gravity that do not go beyond the regional scale. For example, criminal offences that take place inside enterprises or in connection to infrastructural developments, such as the illicit application of certain waste-type streams in civil engineering.
- *Local level* – Simple environmental criminal enforcement activities are dealt with by the local police squads as a part of their general police function in city districts and rural areas. The nature of the environmental cases is mostly connected to littering, nuisance, dumping of garbage, small emissions to water, but also offences like illegal manuring of farmland. When the local squads come across environmental offences that are more complex or more serious, they inform the Regional Environmental Team so that experts can take over. In this sense, the local police officers are the eyes and ears (and noses) for their specialised colleagues.

The Office of the Public Prosecutor is ultimately the responsible authority for criminal investigation and enforcement. In order to strengthen its position and abilities to counteract environmental crimes, a so-called Functional Service for environmental crime and fraud was put in place, simultaneously with the reorganisation of the environmental police function. This functional unit is responsible for the steering of criminal investigation activities of the Regional Environmental Team and Interregional Environmental Teams of the police forces and for the prosecution of identified suspects. The unit has a staff of approximately 100 people and operates at the national level.

5 FRAME OF REFERENCE FOR THE ENVIRONMENTAL POLICE FUNCTION

In order to assist and advise the forces in the process of the reorganisation of environmental policing functions, and to do this in an unequivocal way, dedicated terms of reference for the new structure were developed. In fact, these terms of reference can be seen as a model-description of the new organisation, which serves as a reference to monitor how far police forces have progressed with the implementation of the new structure, both individually and collectively.

In the frame of reference the following aspects have specifically been worked out:

- Responsible executive officer who holds the portfolio of (criminal) environmental enforcement within the Board of Chief Constables.
- Responsible executive officer who holds the portfolio of (criminal) environmental enforcement within the regional police forces.
- Definition of “simple environmental offences,” “intermediate environmental crime,” and “serious environmental crime.”
- Steering mechanisms.
- Information management.
- Cooperation with other authorities and services for criminal and administrative enforcement at national and regional level [see Appendix for concrete example].
- International cooperation.
- Job descriptions and required competences.

- Planning, control, monitoring, and reporting.

6 FIRST EXPERIENCES AND FURTHER DEVELOPMENTS

The first experiences with the new environmental police structure and organisation have been evaluated in a midterm review in 2006/2007. The main findings, which all have a mutual relationship, include the following:

- The position of the teams with respect to criminal information and intelligence is rather fragmented. This is related to the problematic mutual sharing of relevant data between the different criminal and administrative enforcement authorities. Major steps forward are required here, so that the analysis and selection of cases and the profiling of criminal activities can improve. This also pertains to the international exchange of information.²
- The integral and quantified picture of serious environmental crime is largely missing. This is mainly a consequence of the limited information position of the police and other authorities, as sketched. Therefore, it is probably just the tip of the iceberg of environmental crime that is noticed and counteracted.
- The professional position of the teams is still vulnerable. This is related to the sometimes limited support and priority of higher management for the environmental police function. The implementation of clear functional profiles for team members could improve the professional status of the teams and the tasks they fulfil. Competitive remuneration is also an element in this context. Furthermore, the allocation of officers to the teams in terms of qualifications and professional skills deserves further attention. A balanced combination of environmental expertise and criminal investigative competences is ideally required.
- Finally, the review made clear that the frame of reference for the environmental police function has not been implemented in a uniform and structured manner throughout the police organisation. Individual police forces followed diverging approaches and interpretations.

The environmental police function is by no means static in nature. Developments in society at large, the police in general and crime patterns specifically, require that environmental policing responds in a dynamic way. Some examples of ongoing developments, also in response to the above interim findings, are the following:

- The Dutch police have put forward first, and altogether distinctive, steps towards *intelligence led policing* in her attempt to clamp down on serious environmental crimes.
- The enforcing agencies, whether on local, regional or national level, have an obligation, to report serious crimes that they encounter to the police/justice department.

- In order to strengthen the intelligence position on serious crimes, a program has been initiated that stimulates employees of organizations and enterprises that are active in the transport and treatment of waste, to report anonymously to the police serious crimes/offences they know of. This had already led to tens of new cases for further investigation.
- Each of the regional police forces is obliged to deliver annually an environmental threat assessment, which serves as a foundation for their environmental enforcement strategy.
- In the coming three years the Dutch police, in close cooperation with its National Police Academy, will invest considerable time and effort in improving the professional quality of field officers, analysts, detectives and 'runners' (informants) in both the criminal world and legal businesses.
- The concrete contributions of the Dutch police to the broader government objective to improve, protect, and maintain the quality of our living environment, will be evaluated every year by independent researchers from the Police Academy. The results will be published by the chief commissioner, who holds portfolio of environmental enforcement, and be presented to the other police chiefs, the justice department and other relevant Ministries.

7 CONCLUSION

The development and the current structure and organisation of the police function in the Netherlands have been outlined in this paper. This description is not meant to serve as a blue-print for police forces in other countries. Different traditions, cultures, legal structures, and even scope of environmental problems prevent generalistic approaches to environmental policing. Nevertheless, the authors are convinced that specific elements of this paper will be of relevance in the international perspective. However, where this applies, it is not a matter of just copying structural or organisational provisions from the Dutch context. Much more will be required to carefully translate and tailor the approaches to the specific situation in other countries. Subsequently, it would be very helpful if police forces share their solutions for better mutual understanding, networking and cooperation. This would serve the ultimately goal, *i.e.* the effective international enforcement of environmental crime.

8 REFERENCES

¹ The casualties and wounded of the Probo-Koala disaster (2006) in the city of Abidjan, Ivory Coast, demonstrate the severe impact that environmental crime – dumping of hazardous waste in this case – may have.

² In this context, Interpol is promoting the use of EcoMessage as a versatile tool for the international exchange of information on cases of environmental (wildlife and pollution) crime. See www.interpol.int for more information.

9 APPENDIX – EXAMPLES OF COOPERATION AND CRIMINAL INVESTIGATIONS

Example 1: Co-operation Between Police and Other Criminal Enforcement Agencies: The General Inspection Service (AID)

The Convention on International Trade in Endangered Species of Wildlife Flora and Fauna (CITES) is one of the most important international conventions for the protection of animal and plant species. The Convention aims to ensure that the existence of wildlife is not threatened as a result of trade. It deals with living protected plants and animals and derived products, such as ivory, turtle shells and seashells.

In the Netherlands, the Minister of Agriculture, Nature and Food Quality is responsible for the implementation and the enforcement of CITES legislation. To this end, the General Inspection Service (AID) of this ministry strives to monitor and improve compliance with CITES in the Netherlands. Together with the policymakers of the ministry, the AID decides which enforcement instruments to apply. These entail monitoring, criminal investigations, or communication measures aimed at specific target groups.

In view of compliance assurance of CITES, inspectors of the AID carry out inspections at animal traders, zoos and fairs throughout the Netherlands where protected species are bought and sold. The information they obtain occasionally leads to larger-scale criminal investigations. These investigations are also part of the overall approach aimed at stimulating CITES compliance. Analyzing possibilities for fraud, identifying trends and developments, directing and conducting (complex) criminal investigations are the domain of the AID's Criminal Investigations Department, one of the four special criminal investigation services in the Netherlands. Time and again, the results of the chosen instruments provide input for future enforcement strategies, where collaboration with the police, customs and other criminal investigation agencies is of utmost importance – as also shown by the following example.

Example 2: (International) CITES case

During an investigation in Belgium, a suspect and a witness stated that a third suspect caught birds and ploved eggs in several countries, including the Netherlands. The relevant department of AID received this information on the basis of a formal request for (international) legal aid and started further work in the Netherlands. This led to an extensive investigation, spanning three Dutch provinces, during which AID cooperated with regional environmental teams of the police. Experts from several institutions and services supported the investigations. Special investigative methods were applied, like observations, wiretaps and radiographic tracing. As a result, several illegal activities could be established, like emptying of bird nests, domestically, but also in Belgium, Germany and even Greece.

Eventually, in 2007 the investigations resulted in house searches in which approximately 250 birds and 1200 eggs were confiscated. Also, illegal catching means were found and seized. The suspects used falsified CITES certificates, reused the rings of dead birds and applied rings for other birds than allowed.

Private bird protection organisations and the Belgian police participated in the investigations. The offences have been reported to the public prosecutor, who will take further action. Belgian authorities have been asked to take proper action as well, and to this end information has been shared.

Example 3: Illegal Discharge of Chemical Waste in Sewage Disposal System

This particular investigation started after an anonymous report about the illegal disposal of chemical waste from the production process of cleaning products into the sewage system. The first suspect appeared to be the managing director of a company that manufactures cleaning products.

The second suspect, a production employee, was first suspended, but later allowed to work under the condition that he paid a fine, because the offence was entirely his initiative.

The case was taken to the court of justice. The environmental public prosecutor's office demanded the managing director pay a fine of € 40.000. The verdict was a fine of € 10.000, of which € 5000 was conditional. The public prosecutor appealed the decision.

The case against the production employee was handled separately, because there was first the need for a probation report of this suspect.

In the meantime, the managing director filed a claim of € 180.000 at the local administrative authorities for closing down his plant during the investigation. The plant was not allowed to produce from Friday until Monday.

Example 4: Illegal Disposal of Shipping Wastewater

This case was a spin-off case from an investigation against another collector of waste. The information concerned the illegal processing of ship wastewater. Ship wastewater is a blend of water and oil from the engine-room in ships. It is against environmental regulations to dispose of this kind of wastewater; it should instead be collected by registered and authorised waste collectors. About 60,000 tons of wastewater arise aboard Dutch ships annually.

As a result of the information gathered, an investigation was started. Four suspects were arrested and their premises were searched. The suspects were the managing directors of two companies to collect ship waste and ship wastewater. The investigation concerned ordinary companies without any suspicious behaviour. The national police force was even a customer of one of the companies with the ships of the river police.

The idea was that the collectors sold the ship waste water to other companies, where the waste water was worked up and blended to fuel oil for heating installations of agriculture market gardens.

The main suspect was focussed to financial advantage and was considered to be the actual and the intellectual suspect. He started the illegal case. The case was not brought to court. The public prosecutor offered the suspects a settlement € 8000 - to € 12.000, which the suspects accepted to pay.

Example 5: Illegal Trade & Storage of Fireworks

This case started with the arrest of a suspect, who transported 200 kilograms of fireworks. The suspect's arrest led to information about the illegal storage of fireworks on four different locations in the province of Noord-Holland. Searches of the four locations revealed 8800 kg of fireworks.

There were three suspects in this case. The main suspect was a 45-year-old owner of a constructing company, who was previously convicted for illegal trade in fireworks. The second suspect was the son of the main suspect. The third suspect was major purchaser of the illegal fireworks.

The illegal import, trade, and storage of fireworks are serious problems in the Netherlands. A couple of years ago, there was a serious disaster with an exploding storage facility in the city of Enschede. As a result of this explosion, 23 people were killed and nearly 1000 injured, along with the complete devastation of a residential area.

Example 6: Illegal export of hazardous waste and chemical compounds

This example concerns the trade and export of hazardous waste to countries outside the European Union. There was spin-off information that triggered the start of an investigation against two waste processing companies. This investigation was entailed a cooperation between the Interregional Environmental Teams of Noord-Oost-Nederland, the customs, the environmental inspection and the seaport police of Rotterdam. It was coordinated by the specialised public prosecutor's office for environmental crime.

During the investigation 40 sea containers were intercepted on their way to Asia and searched. The Dutch national forensic lab scanned the containers with the latest technology. Four containers held (ozone-destructing) chloro-fluorocarbons. In two containers, waste was found. The approach was the same in all cases: legal waste was stored close to the container entrance and the hazardous (illegal) waste was stored deep into the container, harder to detect. Three suspects were arrested for exporting chloro-fluorocarbons. Further, there was a strong suspicion of fraud in the export papers. The Case is still ongoing.

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INECE Secretariat
2300 Wisconsin Ave, NW Suite 300B
Washington, DC 20007
inece@inece.org
<http://www.inece.org>