

“Going Green” : Is it Changing the Color of “The Thin Blue Line”

by

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June, 2008

COMMAND COLLEGE CLASS 42

The Command College Futures Study Project is a FUTURES study of a particular emerging issue of relevance to law enforcement. Its purpose is NOT to predict the future; rather, to project a variety of possible scenarios useful for strategic planning in anticipation of the emerging landscape facing policing organizations.

This journal article was created using the futures forecasting process of Command College and its outcomes. Defining the future differs from analyzing the past, because it has not yet happened. In this article, methodologies have been used to discern useful alternatives to enhance the success of planners and leaders in their response to a range of possible future environments.

Managing the future means influencing it—creating, constraining and adapting to emerging trends and events in a way that optimizes the opportunities and minimizes the threats of relevance to the profession.

The views and conclusions expressed in the Command College Futures Project and journal article are those of the author, and are not necessarily those of the CA Commission on Peace Officer Standards and Training (POST).

“Going Green” Is it Changing the Color of “The Thin Blue Line?”

It’s almost impossible today to pick up a newspaper or magazine without finding an article on the environmental movement. From the global warming debate to increased environmental crime to increased ecoterrorism, law enforcement will not be exempt from the impacts of these rising environmental issues. The recipients of the 2007 Nobel Peace Prize are a recent example of the importance currently being placed on environmental awareness.

There is no denying that public and political awareness of environmental concerns has continued to gain momentum over the past two decades. Since 1995, the California Environmental Protection Agency (CAL/EPA) has been encouraging the creation and support of localized law enforcement regional task forces dedicated to detecting, investigating, and prosecuting environmental violations.¹ Since 1999, either a county or regional environmental enforcement task force has covered every county in the state.² Although local law enforcement’s role related to the environmental movement has not been clearly defined, departments can take a proactive role and prepare now to address growing environmental concerns from an increasing population.

Going Green, Passing Fad or Here to Stay?

In an effort to sustain our existence through future generations, humankind has always experienced a basic need to protect the environment. In 1972, the United Nations Conference on the Human Environment recognized the importance of protecting the environment by stating that the protection and improvement of the environment is a major issue that affects the well-being of people and economic development and is the

duty of all governments.³ Most recently, during a 2007 Christmas Mass, Pope Benedict XVI emphasized the Vatican's increasing concerns related to the environment and identified the need for increased protection.⁴ The population's actions or inactions, individually or collectively, have an impact on the ecosystem. With a growing population, these environmental impacts become more readily apparent, and require more significant management by government to mitigate adverse effects.

The United States' population has been constantly rising, and has placed numerous additional burdens on the environment. The impacts are as diverse as increased consumption of natural resources and energy supply and an increase in waste products from new homes and businesses. According to the 2006 State of California Census, the State's population was estimated to be 37,444,000. A population increase of 6.7 % is expected over the next five years, which will add an additional 2.5 million people by 2011.⁵ At this rate, California's population will be over 40 million people by the year 2016. It was recognized as early as the late 1800's, when California's population reached a booming one million people, that significant damage to the environment was already apparent.⁶ Poor agricultural practices at the time quickly exhausted the nutrient rich soils which caused the farmers to abandon their farmlands and search for new, fertile soil. These practices eventually became one of the contributing factors to the unprecedented damage caused during the dust bowl storms of the early 1900's.

This loss of farmlands focused national attention on the need for soil and water conservation measures to maintain farm productivity.⁷ Wetlands in California are currently under attack by the residential and commercial development demands required to meet an increasing population. It is estimated that more than 90% of California's

original wetlands have already been lost.⁸ This is the highest loss of any state in the nation and the majority of the loss can be directly related to economic development.⁹ The loss of wetlands can have a significant impact on the biodiversity of species within California as well as significant impacts on the economy.

Experts from the National Marine Fisheries Service have determined that California's wetlands play an integral part in both the commercial and sport fisheries by providing food, protection, and spawning areas for a number of fish species. They estimated the state's recreational fishery in 1995 generated more than \$900 million in earnings by supporting 40,000 jobs and contributing more than \$90 million in state sales tax.¹⁰ With an increasing population, we will likely witness proportionate pressure on the environment that will lead to additional environmental crimes and increased public concern.

The negative impact that an increasing population has on the environment is well documented. According to Vicky Markham who is the Director of the Center for Environment and Population research group, scientific studies have revealed that the United States is reaching many of the nation's ecological limits, one by one, and many of these limits can be linked to population trends.¹¹ In addition, the research group believes America's relatively high population growth and high rates of resource consumption and pollution make for a volatile mixture resulting in the largest environmental impact per capita...in the world."¹² These increasing impacts result in government bodies enacting more environmental regulations in an effort to protect the environment and ensure sustainability of our natural resources for future generations. Efforts to enhance regulations to protect the environment started back in the early 1970's.

Government Regulation

In 1970, the federal government passed the Clean Air Act and in 1973, passed the Clean Water Act. Both of these policies were heralded as the first major pieces of federal environmental protection. The California State Water Resources Control Board (CASWRCB) is responsible for administering the state's storm water management program. Municipalities and counties must comply with the requirements established by their regional boards. In addition to these state requirements, amendments to the Clean Water Act currently require cities that "discharge storm water" to obtain a federal permit.¹³ This requires cities to formalize a plan on how they will monitor and enforce violations related to these mandates. The new mandates have caused many cities to evaluate how they will regulate their citizens' everyday activities.

Recently in Santa Monica California, city officials drafted a plan to regulate how groups or organizations like the Boy Scouts and local soccer clubs hold car washing fundraisers. Other cities and counties like Fairfax, California and San Luis Obispo County recently considered local ordinances that would ban residents from washing their cars at locations other than public car washes. In 2007, the cities of San Francisco and Oakland banned the use of plastic bags within their jurisdictions. The use of polystyrene foam (commonly known as Styrofoam) food containers has been banned in over 100 cities nationwide including several California cities.¹⁴ Given pace with which public attention is being drawn to environmental concerns, locally driven ordinances, combined with state and federal mandates, may eventually lead to increased expectations of local law enforcement agencies to enforce these laws.

Industry experts believe the trend of federal and state environmental enforcement mandates being transferred to local governments will continue to increase. Michael Pompili, an Assistant Commissioner of Environmental Health in Columbus, Ohio stated “Over the past four years an additional 75 toxic management mandates have been imposed on local governments, with some of these mandates scheduled for implementation as late as the year 2015.”¹⁵ With increasing environmental regulations, one of the underlying questions for public safety still remains, what constitutes an environmental crime and, why should they care?

Environmental Crimes Definition and Recognition

Environmental crime can be defined as “an act committed with intent to harm or with a potential to cause harm to ecological and/or biological systems.” More simply put, “an environmental crime is any act that violates an environmental protection statute,” says Mary Clifford, author of the book *Environmental Crime*.¹⁶ This is a clear definition that fits our traditional view of environmental crimes that result in a negative impact on the environment. Of course, these crimes are only a part of a larger framework of responsibility for local law enforcement.

Police Departments are responsible for the safety and well-being of the communities they serve as well as the deterrence of crime within them. With increasing impacts on the environment and a growing awareness of how these impacts can affect our citizens’ quality of life, the demand for local action may increase exponentially. Crimes against the environment are commonly unreported or not typically recognized by municipal law enforcement agencies. They are often missed because street level officers

have received very little training in the recognition or impact environmental crime can have on a community. Environmental crimes of large corporations often get extensive coverage in the media and are quickly recognized by police practitioners as criminal activity. Environmental crimes of smaller businesses or individuals are just as common but may be more difficult to recognize as criminal activity. Envision a company dumping thousands of gallons of a toxic substance into a nearby waterway to avoid expensive hazardous waste handling costs. This obvious environmental crime is one that can be easy for law enforcement to recognize given the right training and exposure to this “model” of crime.

One example of a non-typical form of environmental crime is non-point source pollution. Non-point source pollution comes from many diffuse sources typically related to every day human activity. Excess use of fertilizers and pesticides, sediment from improperly managed construction sites, petroleum products from urban run off, bacteria from livestock, pet waste, and faulty septic systems all contribute to non-point source pollution. Several states report “non-point source pollution as the leading remaining cause of water quality problems.”¹⁷ These smaller scale environmental crimes also require training for the street level officer to recognize and investigate. Environmental crimes remain complex, and are not as easy to distinguish as more familiar criminal activity like burglary or robbery.

There are additional crimes, though, that are a part of the current environmental movement that are more easily recognized by law enforcement agencies. These are crimes that do not fit the more traditional definition because they are committed by people who believe their acts are necessary to protect the environment from others who

they view as destroying natural habitat or wildlife by developing lands for housing or commerce.

Ecoterrorism

The Animal Liberation Front (ALF) and the Earth Liberation Front (ELF) are two identifiable radical groups known for criminal activity or acts of ecoterrorism. Over the past two decades, ecoterrorists have committed hundreds of arsons, bombings and acts of vandalism, causing more than \$100 million in damages.¹⁸ As recent as March 2008, ELF appears to be responsible for arson fires that claimed five homes under construction near Seattle, Washington with an estimated value of \$7 million. Notes left at the arson site identified ELF members as claiming responsibility and suggested the homes were targeted in an effort to stop urban sprawl. Even though radical environmental and animal rights groups like these have been overshadowed by the terrorist acts of September 11, 2001, ecoterrorism remains one of the country's most active terrorist movements.¹⁹

In 2004, the FBI's counterterrorism division noted in front of the Senate Judiciary Committee that there was an, "upswing in violent rhetoric and tactics" from ecoterrorist groups and stated that in recent years ELF and ALF "have become the most active criminal elements in the United States."²⁰ Unfortunately, ecoterrorist groups like this are loosely formed and law enforcement has found it very difficult to identify and infiltrate the organizations.

Even though most citizens disagree with the criminal tactics used by ecoterrorists, their activities showcase just how far some individuals are willing to push the limits to bring awareness to environmental issues. In spite of the sincerity of those committing

crimes as a part of these extremist groups, local law enforcement agencies will be tasked with investigating and apprehending both types of environmental violators. As the public's environmental awareness continues to rise, it will result in an even higher priority being placed on the protection of our environment.

The Future of the Environmental Movement

In a Yale poll conducted in March of 2007, it was found that 63% of Americans agree the “United States is in as much danger from environmental hazards, (e.g. air pollution and global warming), as (from) terrorists.”²¹ Our local and state governments are also placing a higher emphasis on the importance of protecting the environment. A clear example of this strong environmental political movement is Governor Schwarzenegger's signing of Assembly Bill 32 in late 2006 known as the Global Warming Solutions Act. This bill requires the California Air Resources Board (CARB) to develop regulations and market mechanisms that will ultimately reduce California's greenhouse gas emissions by 25 percent by 2020.²² Both national and international luminaries joined the Governor to show their support of the first governmental greenhouse emissions trading system enacted within the United States.

In the current political climate, where concerns about global warming, environmental damage, and going Green are in the daily news, those issues will trickle down from the federal to the state and local level when crime against the environment are committed. Public safety agencies currently have resources in place they could utilize to address increasing environmental concerns. In fact, federally-sponsored and assisted task forces have been doing so for more than a decade.

Future Involvement for Law Enforcement Agencies

When the California Environmental Protection Agency (CAL/EPA) encouraged the formation of environmental task forces they recognized the complexity of issues associated with environmental crimes, and the need for an integrated approach that encompassed a combined examination of air, water, waste and other environmental concerns simultaneously.²³ CAL/EPA believed the formation of these environmental task forces would allow participating members from varying agencies to pursue investigations which no single entity could accomplish alone, due to limitations of resources, expertise and information gathering capabilities.²⁴ Unfortunately, there are currently a limited number of very successful environmental multi-agency task forces that have combined efforts and resources with local law enforcement agencies to combat environmental crime.

The Los Angeles County Environmental Crimes Task Force is one example of success. This task force was first formed in 1984, and was originally comprised of five participating agencies. The Los Angeles task force now has permanent representatives from more than 20 enforcement and regulatory agencies. Over the years, the task force has had numerous successful criminal prosecutions related to environmental crimes. One of the biggest successes that showcased the necessity for interagency involvement occurred in 1990.

That year, Raymond Franco and David Torres became the first defendants named in felony indictments under federal environmental law for the disposal of hazardous waste across international borders. The men were involved in a scheme to transport hazardous waste from California to Mexico for illegal disposal. The task force utilized

resources from federal, state, county, local and Mexican agencies to successfully complete the complex investigation. In that same year, the task force filed criminal charges against an additional 107 defendants for various environmental crimes and enjoyed a 75% conviction rate.²⁵

Another example of a successful multi agency environmental task force is the Blue Ridge Task Force in Virginia. This Task Force was first established in 2001 with a mission to protect the quality of Virginia's natural resources while striving to facilitate the communication, information sharing, and coordination of enforcement efforts among several federal, state, and local law enforcement agencies.²⁶ In 2006, the task force successfully investigated and prosecuted a case against two owners of a metal finishing business. The company had been allowing large amounts of acid and cleaning agents and metals to enter their waste water stream without pre-treating it as required by federal law. The company was fined \$25,000 and ordered to pay restitution of an additional \$25,000. The company president and vice president received 3 years probation and were ordered to personally pay additional fines.²⁷ Without the collaborative approach from several agencies involved in the investigation, this type of investigation and prosecution would have been very difficult. The regionalized task force approach allows participating agencies to maximize their resources and resolve regional environmental crime issues.

The regional task force approach is also very beneficial to state and federal agencies. By educating and involving local law enforcement agencies in the regional task force concept, state agencies like the California Department of Fish and Game benefit by increasing the number of enforcement officers who recognize and are trained to at least take the first steps to investigate environmental crimes. Fish and Game has traditionally

been tasked with focusing on environmental protection efforts as a part of their primary mission. Fish and Game has been suffering for several years from reduced wardens in the field as a result of low pay and unfilled vacancies. State Senator Dave Cognil stated, “the (pay) disparity is so great that the Department of Fish and Game is unable to fill its 64 current vacancies and stands to lose an additional 40 wardens due to retirement and salary concerns.” In July of 2006, there were only 192 game wardens on patrol. That’s one warden for every 180,288 people in the state.²⁸ In addition to decreased numbers of game wardens, United States Environmental Protection Agency (U.S./EPA) criminal investigators numbers have also been declining. In 2003, the U.S./EPA reported having 210 criminal investigators. By 2006, that number had fallen to 185.²⁹

With increasing numbers of environmental regulations and decreased numbers of law enforcement officers at the federal, state and local agency levels, the formation of task forces among agencies to address the rising environmental awareness and reported crimes is a solution that every agency needs to consider. Environmental laws are often very technical and require special expertise to enforce. Local law enforcement agencies that chose to join multi agency environmental task forces will directly benefit from the collaborative effort of federal agencies, state agencies, county agencies, and local organizations that have resources, information or expertise. Finding out if there is a local task force in your area is an important first step for local agencies.

California Environmental Protection Agency’s (CAL/EPA) website has a list of environmental task forces in California. By researching the website, a local agency may find there is an environmental task force already present in their jurisdiction. In jurisdictions with a moderate to significant population size, most District Attorney’s

Offices have a deputy district attorney specifically assigned to handle environmental crimes. Locating an environmental task force can be as simple as contacting the District Attorney's office and inquiring about their staffing and capacity in this area. In more rural areas, CAL/EPA, the California District Attorneys Association, the Department of Fish and Game and the U.S./EPA established the Environmental Circuit Prosecutor Project. This project provides experienced environmental prosecutors and assistance to over 30 rural counties that lack the resources to prosecute environmental crimes. The project also provides training and coordination with local and state environmental enforcement agencies to enforce environmental law.³⁰ This is a valuable resource that rural law enforcement agencies can utilize to begin combating environmental crimes. The next step after an agency makes a commitment to join an environmental task force is to select personnel to attend training.

Training opportunities are available through CAL/EPA and are designed to provide guidance on environmental enforcement investigations. The "Introduction to Environmental Enforcement" and "Advanced Environmental Criminal Investigations" are two of the available courses. CAL/EPA also hosts a Basic Inspector Academy that teaches core knowledge and skills focused on environmental regulations. The academy also focuses on the importance of "cross media" awareness, which is an interdisciplinary approach that recognizes many environmental issues cannot be fully addressed without the involvement of more than one environmental regulatory entity.³¹ The cross media approach emphasizes the importance of building regional task forces. There is also an annual Environmental Cross Media Enforcement Symposium held in California that provides training, discusses the latest environmental scenarios, and enforcement methods.

In addition, limited grant money is available through CAL/EPA, specifically provided for environmental enforcement and training.³²

The formation of task forces has long been supported as a proactive approach in addressing emerging environmental protection issues. EPA and other agencies involved with environmental task forces have shared an improved ability to respond to environmental crimes, have been more successful in prosecuting complex and difficult cases, reacted more quickly to environmental emergencies, and effectively coordinated activities including training.³³ Local law enforcement agencies will enjoy these same benefits by taking advantage of available training and becoming active members of a regional environmental task force within their jurisdictions.

In Summary

The increasing population in California will continue to strain our natural resources and cause additional negative impacts on the environment. This will compound the current environmental concerns of the public and lead to an increase in environmental regulations and environmental priorities. Local law enforcement agencies can be proactive to prepare for these increased responsibilities, whether they come from federal and state mandates or locally enacted ordinances. Building a working relationship with federal, state and county agencies is a necessary first step to successfully investigate and prosecute environmental crimes. Agencies who are not currently involved can enhance their ability to meet the communities' escalating needs by joining a local regional environmental task force in their jurisdiction.

The environmental movement will continue to gain momentum as our population swells and environmental impacts intensify. These impacts will result in the public's enhanced environmental awareness and emerging expectations of increased protection from local law enforcement. The citizens' expectations of protection from environmental crimes will continue to expand into the future. The question to each agency is: are you preparing to provide that protection?

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