

**Are You Ready to Be Green?  
THE IMPACT IF LOCAL LAW ENFORCEMENT WAS TO  
ENFORCE ENVIRONMENTAL CRIMES.**

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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).

## **Are You Ready to Be Green?**

### **THE IMPACT IF LOCAL LAW ENFORCEMENT WAS TO ENFORCE ENVIRONMENTAL CRIMES.**

#### **Introduction**

The world is becoming increasingly concerned with the effects of global warming. The political climate is changing, and every citizen seemingly has the responsibility to protect the environment. There is a growing trend in America; citizens are driving hybrid cars, looking at alternative sources of energy like solar, and reducing their consumption of products that cannot be recycled, thus creating a culture of citizens that want to become “green”. The “green” movement is becoming the norm, and is slowly changing the mindset that everyone has a stake in the environment, and a responsibility to take care of it.

One only needs to look around and to notice the world is becoming increasingly concerned with the effects of global warming. The environmental agenda is changing the way Americans think about the use of natural resources (once seen as the liberal viewpoint). Certainly, it is not unrealistic to imagine that legislation in the future could see local law enforcement being mandated to enforce environmental crimes. Will law enforcement be ready for the change?

#### **The History of Enforcing Environmental Law**

The history of protecting the environment started in the 1600’s when the Plymouth Colonies enacted ordinances that would regulate how much timber could be harvested on colony lands.<sup>1</sup> The laws and ordinances of the Plymouth Colonies were

enacted to conserve natural resources, as they believed humans needed them to ensure a certain quality of life for future generations.<sup>2</sup> The conservation ideology that started in the 1600's was the primary thought that lasted through the end of the late 1800's. At that time, differences emerged amongst environmentalists regarding how best to protect natural resources. One view was conservation, sustaining natural resources for human needs. The opposing viewpoint was to preserve the environment regardless of human consumption for needs. This ideology is preservationism.<sup>3</sup>

The ideology of a preservationist is to preserve nature for its inherent value, and not to serve human needs; e.g., to preserve the wilderness for future generations.<sup>4</sup> The first act of preservation was the creation of Yellowstone Park in 1872 by President Grant, which created the first national park in the world.<sup>5</sup> The creation of Yellowstone Park represented a significant moment in the creation of the preservationist movement in America. The US Army was charged with park protection and administration from 1915 until 1918, when its management was handed to the neophyte US Parks Service, created by Congress in 1916.<sup>6</sup>

It wasn't until the Great Depression of the 1930's when conservationists launched efforts to legislate their ideology at the federal level. The economic destruction of the Great Depression and the dust bowl conditions created by environmentally destructive farming practices led to the change in environmental legislation by the Franklin D. Roosevelt administration.<sup>7</sup> The environmental policies of the 1930's were intended to conserve and prolong natural resources to maintain them for economic purposes.<sup>8</sup> It was during the post World War II era that the use of the atomic bomb and the increase production of chemicals saw the beginning of the modern environmental movement.<sup>9</sup>

## **The Modern Movement of Enforcing Environmental Laws**

The Audubon Society and Sierra Club are environmental organizations that represent the preservationist perspective. In 1962, the Sierra Club began to change their strategy by opening an office in Washington D.C, in attempt to become a major influence on Congress and other Washington institutions.<sup>10</sup> These groups took it upon themselves to become the “official” advocate for the environment within the offices of Capitol Hill.<sup>11</sup> These special interest groups made a great impact on the environmental movement not only in Washington, but the throughout the nation.

In December of 1969, President Richard M. Nixon appointed a White House committee to examine if the federal government should have a stand alone environmental agency.<sup>12</sup> It was about the same time that Congress passed a bill to the President that was known as the, National Environmental Policy Act (NEPA). The stated purpose of this statute was:

To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.<sup>13</sup>

The Council on Environmental Quality (CEQ) was established to be responsible for advising the president about environmental issues. President Nixon made a statement by signing the bill on January 1, 1970<sup>14</sup>. It was not only the first law of the decade, but it

was the beginning of environmental events to happen. In December of 1970, the birth of the Environmental Protection Agency (EPA) was created through an executive order by President Richard M. Nixon. Executive order 11102, created a regulatory agency that was responsible to implement and oversee the 1970 Clean Air Act and 1972 Clean Water Act.<sup>15</sup>

In the beginning, the EPA's responsibility was to be involved in all environmental protection issues. The EPA has three basic ways that it enforces environmental violations: administrative enforcement, civil enforcement, and criminal enforcement. The EPA's first objective is to achieve voluntary compliance with environmental regulations.<sup>16</sup> If this voluntary compliance is not achieved, the EPA will refer the matter to the Department of Justice for civil or criminal prosecution.<sup>17</sup>

The EPA's current strategic plan (submitted to congress in 2006) notes the following goals; Clean Air and Global Climate Change, Clean and Safe Water, Land Preservation and Restoration, Healthy Communities and Ecosystems, and Compliance and Environmental Stewardship.<sup>18</sup> The EPA has created an innovated strategy to support state governments through partnerships with the National Governors Association, National Council of State Legislatures, and the Environmental Council of the States.<sup>19</sup> The plan is for the EPA to develop relationships with state and local governments by expanding their enforcement tentacles to better protect the environment and public health.<sup>20</sup> Given this expanding scale of cooperation, what might be the future for local law enforcement?

In the years since the signing of the NEPA, there have been a number of notable laws and policies that indicate the local police may have an ever-increasing role in the enforcement of environmental laws in the future. Most notable amongst these are:

- In 1970, the United States Congress passed the Substances Controlled Act which lead to the creation of the Drug Enforcement Agency and the “war on drugs” declaration by the government.<sup>21</sup> This trend caused local law enforcement agencies to create narcotic task force units and street crimes units to combat the growing problem of drugs and violence in the streets of American cities.
- In 1980, the creation of Mother’s Against Drunk Driving (MADD) caused police departments to take a more pro-active approach towards the enforcement of driving after drinking alcohol. Law enforcement created some effective strategies that included the creation of DUI checkpoints and strike teams. This trend was the response to political and community influence to make DUI enforcement a priority for local agencies.
- In 1996, the creation of Megan’s Law caused law enforcement to take a pro-active approach towards the monitoring of sex registrants and notifying the public when certain offenders were released into their communities. This law created new responsibilities for local law enforcement to perform and forever changed how law enforcement distributes information on sexual predators.
- In the late 1990’s, the increase of violence on school campuses reached the pinnacle with the massacre at Columbine High School in Littleton, Colorado. The trend of classroom violence caused law enforcement to create better

relationships with school administrators and the beginning of school resource officers being assigned on campus full-time was born.

Policing practices during the past few decades have been redirected to respond to emerging social trends and distinct events that shaped how they provide service to the community. Although current practice entails little effort regarding enforcement of crimes against the environment, trends indicate a different future. The paradigm shift of being proactive in environmental enforcement will increasingly be seen as a benefit to the community, as there would be a deterrent for those involved in that activity and early detection might be able to reduce the damage to the environment from these criminal acts.

### **Assessing the Future-An Expert Panel Weighs In**

In September of 2007, a panel of experts gathered in San Rafael, California to discuss the issue of environmental crime and the responsibility that local law enforcement may someday be mandated to enforce.<sup>22</sup> The panel consisted of a county supervisor, a probation department executive, a fish and game warden, a deputy sheriff that is assigned to protect the municipal watershed, a director with the California Hazardous Materials Investigators Association, the Chief Inspector with the District Attorney's Office and a fire department captain that is assigned to a hazardous materials unit. The panel provided the following observations and suggestions in several subject areas:

**Budget Benefit-** The cost of disposing hazardous waste is expensive and as the market continues to take a downturn for the worst, more individuals and companies will try to dispose of that waste illegally. The costs of hazardous waste that is illegally dumped can

go from thousands of dollars to ten of thousands of dollars. When local law enforcement can locate the violator or catches them in the act, that jurisdiction would not have to absorb that unbudgeted cost of cleaning up that waste.<sup>23</sup>

**Training Benefit-**The panel felt that it will be imperative to provide those who are patrolling the local communities on a daily basis, training on environmental crime detection and investigation. The training will increase the patrol officers' awareness of which environmental offenses are occurring within their communities. The panel identified several environmental crimes that could be handled by local law enforcement, including illegal dumping of hazardous wastes by professional hauling companies, waste water sediment issues, and the illegal dumping of e-waste.

**Expertise Benefit-**The creation of an environmental crimes unit or assigning a liaison officer to a task force will create better communication amongst federal, state and local agencies in the enforcement of environmental crimes. The liaison could be a specialist responsible to identify emerging environmental crimes like the poaching of fish and/or other animals, or large scale marijuana farms in protected wilderness areas. The specialist would be an asset to the organization and the local community because of their expertise and knowledge that they would be able to share.

**Community Benefit-**It will be important to educate the community on the dangers and cost involved in those who commit environmental crime. The first part will be to have additional ears and eyes to combat environmental crime. The second part will be to get

the community to understand the importance of protecting the environment through this enforcement. Once the public is aware of the environmental crimes that happen everyday in their community, there will be an expectation that local law enforcement should focus their attention to this problem.

The panel of experts agreed that, when you examine the economic and social benefits for local law enforcement to be involved with the fight against environmental crime, it is a logical conclusion that local law enforcement should be prepared for these duties as a mandate in the future.

### **Recommendations for the Future**

The current social and political trend is to protect the environment public education and enacting new laws. Local politicians are passing legislation that attempts to protect the environment by banning plastic bags<sup>24</sup> or influencing communities to practice “zero-waste” in their consumption of daily goods<sup>25</sup>. Local governments in Marin County CA are creating “Green Teams” so communities can reduce their “carbon footprint” both locally and globally by creating strategies to deal with environmental issues like energy conservation, waste management, green buildings and water conservation. According to Thomas Friedman, author of *The World is Flat*;

“We used to look at environmentalism as a hobby for the high-minded. But conserving energy and living a “green” lifestyle is actually the most patriotic thing you can do today. It fights global warming, protects nature, shrinks our dependence on foreign oil and makes America a model others want to follow. Green is the color of patriotism. Green is the new red, white and blue”

The ideas that Friedman proclaims are becoming socially and politically mainstream throughout America. It is important for law enforcement executives to recognize this prevailing trend, and to be prepared for possible changes in the future. Police organizations that prepare well for the future need to put the idea of local law enforcement policing the environment on the short list of topics for further study and action.

### **Conclusion**

The history of environmental laws dates back to colonial days, and the fact that those policies have been sculpted by legislators over time provides insight regarding law enforcement's possible future mandates to enforce environmental crimes. The "green" movement is becoming the norm, and it is important for the police to be prepared for this possible change in responsibilities and the new partnerships with the community.

While this article has provided some insight on the history and thoughts about environmental crime, the idea of actually enforcing environmental laws would cause a paradigm shift on how law enforcement operates within the community. The time has come for local law enforcement to become partners with federal, state and other local agencies in the battle against environmental crime. It will benefit the community, and it will help save the planet.

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<sup>1</sup> R. Nash, *The American Environment: Readings in the History of Conservations*, 2d ed. (Reading, MA: Addison-Wesley, 1976)

<sup>2</sup> Mary Clifford, *Environmental Crime: Enforcement Policy and Social Responsibility*, {Gaithersburg, Maryland: Aspen Publication, 1998} 32

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- <sup>3</sup> D.H. Strong, *Dreamers and Defenders: American Conservationists* {Lincoln, NE: University of Nebraska Press, 1988}.
- <sup>4</sup> D.H. Strong, *Dreamers and Defenders: American Conservationists* {Lincoln, NE: University of Nebraska Press, 1988}.
- <sup>5</sup> Mary Clifford, *Environmental Crime: Enforcement Policy and Social Responsibility*, {Gaithersburg, Maryland: Aspen Publication, 1998} 38
- <sup>6</sup> National Park Service-US Department of Interior, {on line} accessed November 2007, available at <http://www.nps.gov/yell/historyculture/archeologyindex>.
- <sup>7</sup> JP Lester, *Environmental Politics and Policy: Theories and Evidence* {Durham , NC: Duke University Press, 1989} 26
- <sup>8</sup> Mary Clifford, *Environmental Crime: Enforcement Policy and Social Responsibility*, {Gaithersburg, Maryland: Aspen Publication, 1998} 42
- <sup>9</sup> Mary Clifford, *Environmental Crime: Enforcement Policy and Social Responsibility*, {Gaithersburg, Maryland: Aspen Publication, 1998} 42
- <sup>10</sup> The Start of the DC Offices, available at: [http://www.sierraclub.org/history/offices\\_dc.asp](http://www.sierraclub.org/history/offices_dc.asp)
- <sup>11</sup> Mary Clifford, *Environmental Crime: Enforcement Policy and Social Responsibility*, {Gaithersburg, Maryland: Aspen Publication, 1998} 42
- <sup>12</sup> The Birth of EPA, {on line} accessed September 2007, available at: [www.epa.gov/history/topics/epa](http://www.epa.gov/history/topics/epa)
- <sup>13</sup> The National Environmental Policy Act Section 2, available at: [www.nps.gov/history/local-law/FHPL\\_NtlEnvirnPolcy.pdf](http://www.nps.gov/history/local-law/FHPL_NtlEnvirnPolcy.pdf)
- <sup>14</sup> The Birth of EPA, {on line} accessed September 2007, available at: [www.epa.gov/history/topics/epa](http://www.epa.gov/history/topics/epa)
- <sup>15</sup> The Birth of EPA, {on line} accessed September 2007, available at: [www.epa.gov/history/topics/epa](http://www.epa.gov/history/topics/epa)
- <sup>16</sup>
- <sup>17</sup> The Birth of EPA, {on line} accessed September 2007, available at: [www.epa.gov/history/topics/epa](http://www.epa.gov/history/topics/epa)
- <sup>18</sup> The Strategic Plan of the EPA, available at: <http://www.epa.gov/ocfo/plan/plan.htm>
- <sup>19</sup> The Strategic Plan of the EPA, available at: <http://www.epa.gov/ocfo/plan/plan.htm>
- <sup>20</sup> The Strategic Plan of the EPA, available at: <http://www.epa.gov/ocfo/plan/plan.htm>
- <sup>21</sup> The Birth of the DEA, {on line} accessed July 2008, available at: [www.usdoj.gov/dea/pbs/csa/801.thm](http://www.usdoj.gov/dea/pbs/csa/801.thm)
- <sup>22</sup> The Nominal Group Technique Panel was assembled on September 26, 2007 at the Marin County Sheriff's Office in San Rafael, California. Panel members consisted of: Charles McGlashan, Marin County Supervisor-District III; Michael Daly: Deputy Chief of Marin County Probation Department; Kyle Hiatt: Lieutenant Warden with the California Fish and Game; Matthew Larson: Deputy Sheriff that is assigned to the Marin Municipal Watershed District; Hansen Pang: Investigator with the Alameda County District Attorney's Office and Bay Area Director of the California Hazardous Materials Investigators Association; Robert Guidi: Chief Inspector of the Marin County District Attorney's Office; Michael St. John: Captain with the Mill Valley Fire Department and the Marin County Hazardous Materials Team.
- <sup>23</sup> This Information was provided by Inspector Hansen Pang of the Alameda County District's Attorney's Office during the September 2007 NGT.
- <sup>24</sup> Refer to: [http://www.marinij.com/marin/ci\\_6089214](http://www.marinij.com/marin/ci_6089214)
- <sup>25</sup> This thought was generated from Supervisor Charles McGlashan who is an advocate for the environment at the September 2007 NGT. He wants to create legislation that is termed the take-back law, which requires manufacturers to be responsible for the disposal or reuse of products and packaging at the end of the product's useful life. This forward thinking vision is for a society that creates "zero-waste".