**Environmental Crime:
Evidence Gathering and Investigative Techniques
by Steven Drielak**

Springfield, Illinois: Charles C. Thomas (1998) ISBN 0-398-06889-5
(248 pages, \$38.95, no sterling equivalent quoted)

Reviewed by Neil Stanley

As an environmental lawyer engaged in teaching and researching pollution regulation, I found Drielak's book an interesting and helpful insight into the work of a criminal environmental investigator in the USA. In essence, the book is a checklist of best practice in the investigation of environmental crime, distilled over several years of American legal practice.

The book canvasses the following topics: the role of the criminal environmental investigator; the preliminary investigatory work preceding the issue of a search warrant; what those in the UK would describe as illegal 'flytipping' operations; waste drum tracing techniques; sampling procedures; chemical analysis of evidence; and the use of so-called 'sting' operations to unmask those who dispose of hazardous waste illegally. This is a practical text, written in an accessible style.

The \$64,000 question is: of what practical use will a book on US practice be to those outside the USA? I can think of several audiences who might benefit from studying Drielak's book. First, the pollution investigation and prosecution staff in other environmental protection agencies—the Environment Agency (EA) in England and Wales and the Scottish Protection Agency (SEPA), to name but two; second, the defence lawyers retained by businesses which, from time to time, pollute the environment; and third, the police.

The staff of other environmental protection agencies will surely find it helpful to compare notes with Drielak's account of US practice, especially on the complex and demanding tasks of sampling and analysing samples of illegally discharged waste. Drielak places great emphasis on the painstaking process of building up a watertight case against a polluter. The lengths to which the prosecutor must go in the USA, to avoid defence challenges concerning cross-contamination of the evidence, is sobering. Alternative versions of Drielak's book would be welcome, to ascertain how the situations in other countries compare with that in the USA.

Defence lawyers, in general, may find the book useful as a source of potential arguments on which to base a legal challenge to the prosecution's case. Police forces may view Drielak's book as the shape of things to come, since it is possible that they could have a role to play in the enforcement of environmental law in the future (although in the UK, for example, they currently defer to the EA and SEPA in regard to the prosecution of environmental crime). Environmental crime investigators such as Drielak clearly have a role to play in the USA in supplementing the work of the US Environmental Protection Agency. Is the climate right for the development of similar specialist environmental crime investigation units outside the USA?

It is worth pointing out at this juncture that UK environmental regulators have for many years adopted a 'compliance' approach to the enforcement of UK environmental law. The EA and SEPA have ongoing relationships with those businesses that discharge waste into the environment, under the terms of environmental permits issued by the regulators. When a polluting incident occurs, the EA and SEPA will, in most cases, wish to work with the polluter to correct the problem that led to the polluting incident, rather than adopt the sanction-based response to a breach of the law which is evident in Drielak's account of USA practice. (In 'flytipping' cases, however, UK regulators will almost certainly prosecute.) The use of a 'compliance' enforcement policy in the UK was well-documented by Keith Hawkins in the 1980s (see his *Environment and Enforcement*, Clarendon Press, 1984).

There are one or two shortcomings in the book which detract from the generally favourable impression I formed. There are no case studies that would illustrate the penalty for failing to adopt the strict procedures detailed in the text. The book implies that cases may be lost in consequence of shoddy investigation practices, but does not provide evidence to support this, although such evidence undoubtedly exists. The reader is not provided with any statistics to illustrate the scale of environmental crime in the USA. If, as the Foreword emphatically states, 'pollution is a crime', where is the evidence to persuade us that this is a problem worth taking seriously? The book implies that significant resources are required to mount a thorough investigation, but actual costs are not discussed. In the cash-strapped 1990s, policymakers and regulators need to know what the adoption of some of the US practices would cost as well as what benefits they might bring for the successful prosecution of environmental crimes.

This book dispelled any erroneous notions one might previously have held, to the effect that obtaining and processing evidence of environmental wrongdoing was a relatively simple process. Overall, I found the book provided valuable insight into American best practice in the investigation of environmental crime.

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