

# Illegal Dumping Enforcement

Officer's Guide

Texas 2022 Edition

Reading for class:  
TIDRC006 Ethics of  
Local Environmental Enforcement

Chapter 4: Ethics of Local Enforcement

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## Chapter 4: Ethics of Local Enforcement

Officers need to exercise great self-control since they have all the knowledge and power in most situations.

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**A: TDLR Ethical Expectations of Code Enforcement Officers**

If you're a code enforcement officer or registered sanitarian, you are expected to comply with the Texas Department of Licensing and Regulations Code of Ethics for Code Enforcement Officers (Chapter 16 Texas Administrative Code Section 62.70):

*(a) A registrant shall:*

*(1) be knowledgeable of and adhere to the Act, the rules, applicable codes, and all procedures established by the department for registrants; and*

*(2) be honest and trustworthy in the performance of all duties and work performed as a registrant, and shall avoid misrepresentation and deceit in any fashion, whether by acts of commission or omission. Acts or practices that constitute threats, coercion, or extortion are prohibited.*

*(b) A registrant shall not:*

*(1) participate, whether alone or in concert with others, in any plan, scheme, or arrangement attempting or having as its purpose the evasion of any provision of the Act, the rules, or the standards adopted by the commission;*

*(2) furnish inaccurate, deceitful, or misleading information to the department;*

*(3) engage in any activity that constitutes dishonesty, misrepresentation, or fraud while performing as a registrant;*

*(4) consume alcohol or take a controlled substance not prescribed by a physician, while performing as a registrant;*

*(5) verbally, physically, or sexually abuse, or attempt to abuse an individual while performing as a registrant;*

*(6) accept, or offer to accept, any form of compensation for not reporting a hazard as required, or for correcting a hazard which was found while performing as a registrant;*

*(7) fail to report a crime when the report is required by law;*

*(8) claim to be a code enforcement officer or code enforcement*

*officer in training, or use the titles “code enforcement officer” or “code enforcement officer in training,” while the registrant’s registration is expired;*

*(9) use the registration number or certificate of another person, or allow another person to use his or her registration number or certificate;*

*(10) alter a registration certificate in a manner that is deceptive or misleading; or*

*(11) be grossly negligent, incompetent, or engage in misconduct in the practice of code enforcement.*

*(c) A registrant shall notify consumers of the name, mailing address, internet address, and telephone number of the department for the purpose of directing complaints to the department by providing notification:*

*(1) on each written contract for services of a registrant;*

*(2) on a sign prominently displayed in the primary place of business of each registrant; or*

*(3) in a bill for services provided by a registrant to a third party.*

Note the obligation to report crimes when required by law to do so at point (7) above.

Additionally, many cities require officers to report crimes they observe as a condition of employment, and failure to do so may constitute grounds for termination in some cases. This goes beyond the ethical requirement TDLR expresses. Check to see if your city has such a requirement as a condition of your employment. If so, we urge you to discuss with your management to see if this includes observed environmental crimes. And if not, why not?

## **B. Ongoing Ethical Issues Affecting All Enforcement Officers**

The point of training in ethics is to encourage you to consider the impact you are having on your surroundings, especially on other people. It goes beyond a list of minimum behaviors expected by TDLR.

### 1. Fundamental ethical error

Before we get into this discussion, I want to point out a transition that the western world is undergoing regarding just what a woman or man actually is, in any case. We are undergoing a transition from seeing ourselves as “Individuals” to understanding that, in fact, we are “Persons.”

- The prevalent “**Individual**” model we live under is that a fully developed human being is independent from all others, autonomous unto themselves. This position holds that if other people and situations affect me, that is simply a measurement of my own weakness. Independence is seen as the goal of human development. As the heroes in a popular novel put it, “*I swear by my life and my love of it that I will never live for the sake of another man, nor ask another man to live for mine.*” In the Individual model, all existence is divided into two equal parts: *ME* and *everything “outside” of me*, which I can use in any way I like – people, animals, and objects alike. In this model, everything there is exists for the purpose of supporting me: I am essentially a **consumer**, interested in my rights;
- The second, and to my way of thinking a much more realistic “**Person**” model, is that humans are in continuous, close relationship with each other, their surroundings, and their Creator. “*Our every act reverberates throughout a thousand destinies.*” In the western world, the historical source of this understanding of the person is the Trinity, with Father, Son, and Holy Spirit constantly interchanging energy with each other to the point that there is one entity. The best example of this is a marriage in which the persons are in continuous, supportive communion with each other, with neither person using the other for their own ends. In this understanding the Person is essentially a **creator** of the future, concerned about one’s responsibilities.

In our culture and in our work we often encounter Individuals who seem to think they have a right to illegally dump and pollute places where others live. In many ways the local enforcement job boils down

to pushing back against this misunderstanding by demonstrating to the Person that she is NOT an independent Individual, but rather has responsibilities to her surroundings and to the other Persons relying on the same surroundings. This “education” process often includes such things as forcing the abatement of a dump site, making restitution, paying fines, and even, in some cases, spending time in confinement.

#### Control

The officer is in control of most factors in the enforcement situation, which almost always upsets the customer to some degree. Nobody likes to be controlled, under any condition. Moreover, regardless of how hard she tries, there are a couple of things that the officer will never control in the enforcement encounter:

- **The mental condition of the people the officer is encountering is beyond the officer’s direct control.**
- **What kind of day the customer is having before encountering the enforcement officer is too.**

These two factors will usually determine the reaction of the customer. There is nothing that the officer can do to change these underlying realities, but the officer IS 100% in charge of her own response to the customer.

However, there ARE two things the officer is totally in control of that can help bring some peace into a potentially conflictive situation. These don’t always work like magic, but at least they usually don’t add to the problem.

- **Whatever the customer says or does, do not under any circumstances take it personally.**
- **Be extra kind and courteous to everyone with whom you interact.**

If you can manage to do these two things when you’re dealing with customers (and colleagues and bosses), you’ll be happier and things can only go smoother for everybody.

There’s another very basic fact in all this that you might want to ponder:

*Every time we take any action in the world, ethical questions arise. There's simply no way to avoid the basic "What's the right thing to do?" that is present in every situation we face, especially those where control is an issue (which happens in an awful lot of human interactions).*

Usually, the "right" thing to do at home or work and everywhere else is clear. Maybe:

- We rely on a personal habit we have developed; or,
- We hear our mother's or father's voice in our head reminding us of some lesson they tried to reach us; or,
- We remember a lesson from another valued friend; or,
- Some religious principle comes to mind; or,
- We remember the words of a trusted teacher; or
- We trust departmental policy or laws and regulations to guide our actions while working.

When one of these reminders kicks in we may just act automatically, without thinking, from that point, secure in the knowledge that our actions are "right."

But this isn't always the case; sometimes life unexpectedly pulls us up short, and we are momentarily befuddled while we work out a clear path forward. A situation such as the homeowner on a code case refusing to open the door, shouting, "*We have COVID in here; you'd better go away or you'll get sick!*" This may or may not be true, but the assertion has certainly created a new relationship between the officer and the violator.

As to guidance, maybe following those habits seems wrong; or Mom's or Dad's voice in our head is silent or just plain incorrect in this situation (for instance, just about *any* advice Dad might have given us on disposing waste motor oil is probably a five-year felony under TWC Sec. 7.176; "*Thanks Dad!*"); or our religious principles don't cover the situation; or the knowledge imparted by our teachers becomes dated; or departmental policy never considered the situation we're now facing.

Sometimes that debate in your head between your “rights” and your “responsibilities” may be fighting it out. There is nothing at all wrong with that. (When you run out of anything to ponder some Sunday afternoon, try considering in your own mind the question, “*What responsibilities do I owe to my Creator?*” Don’t accept any easy answers in this little spiritual exercise!) We seem to live in a time when it’s easier for us to define out “rights” than our “responsibilities,” as mentioned at the beginning of this section.

Sometimes standing there in our freedom, discerning the "right thing to do" can be nearly impossible, and is almost always extremely uncomfortable; all options seem full of contradictions. Yet we must act, and we do.

- *Imagine that you have been laid-off from your job because of budget cuts at the city, and your aging parents are dependent on you for their support, as is your adult child with mental problems who lives in another town. You hope to find a new job soon, but you are 55 and finding a new position may take some time. Your savings won't stretch to cover everything. You think, "Me, my parents, my child: I have enough savings to support any two of those, but not all three." What is the right thing to do? Maybe we could all live together, but that's a lot to ask anybody to do. So you make a difficult choice. What makes your choice "right"?*
- *Or perhaps your boss has just told you to ignore a significant sewage leak at the rear of a small apartment building in a poor part of town, maybe because the place is owned by a councilman ... but who knows your boss's real reason? He won't talk about it, and he, in turn, seems to be well supported by his own boss. However, you know that children are playing unsupervised in the sewage, and from prior work in the neighborhood you even know some of the kids by name. You're the sole breadwinner for your family and really need to keep this job. What is the right thing to do? Why?*

Neither of these are examples of easy situations where we can just act automatically without thinking, nor are they particularly uncommon.

They all require time to ponder ... if there is time for that.

Maybe some sort of balance can be found. I remember reading Rabbi Hillel – who lived in the generation just before Jesus – being famous for saying, *“If I don’t look out for myself, who will look out for me? But if I only look out for myself, what kind of person am I?”*

You can read the same idea, even more strongly put, in Philippians 2:3-4 *“Do nothing out of selfishness or out of vainglory; rather, humbly regard others as more important than yourselves, each looking out not for his own interests, but [also] everyone for those of others.”*

Easy to say; very hard to do. This is the constant struggle of a responsible person. Recognizing how much we need to care for each other, if we would be fully human, is definitely not a new idea. It IS, however, totally different from the principle of “look out for Number One in all cases” that so many folks around us seem to follow.

Every time we take any action, we are doing so according to some criterion, usually unconscious and unspoken (and hopefully our criterion does not involve resorting to using *racism, sexism, classism, or ageism* to “win” our argument – these are discussed below).

Ethics explores what the basis of our action is, and why we respond to some ethical principles but turn our back on others. Every time we take any action, we’re making the implied statement: *“What I’m doing is the right thing to do!”* And in answer to this silent assertion comes the quiet undertone from somewhere deep inside: *“Oh? And why do you think that?”* The philosopher Jean-Paul Sartre went even farther in identifying our responsibility when we make choices by asserting that *“When we make a difficult decision, we are actually asserting that ANY person who is faced with this situation should make the same choice we are making.”* Most folks are very uncomfortable with this idea, but it really makes the point of how responsible an individual is for her choices.

We’re interested in these questions because fundamentally we want our actions to be based on what we ourselves decide is right, not on early indoctrination by others that we simply haven’t yet challenged.

Our basic drive toward “moral authenticity” as a human leads us to these questions; we want to know why we're doing things. We want to do what is right, because we want our life to matter.

Moreover, since enforcement officers encounter such a wide variety of people, the question, “*What is the right thing to do in this situation?*” comes up a lot. Enforcement is a job that requires thinking.

That’s the point of this chapter on ethics. It doesn’t provide any additional technical information that we can immediately use to deal with dumping or public health nuisances – that’s what the rest of the book is for. So what’s the “cash value” of these ethical ideas, as the nineteenth century American philosopher William James would have put it? “*How do these ideas make an actual difference in our lives?*” That remains the ongoing question as we mature.

## 2. Energy Interchange model of relations

It’s helpful to consider what really happens when we encounter other Persons as a Person, and stop pretending that we are all independent individuals whose existence doesn’t rub-off on each other.

### a. Model explained

When we meet other persons, we form immediate heart-to-heart connections with everyone with whom we interact. That’s what humans do. At the speed of light. It can’t be prevented, but it can be anticipated and planned for.

It’s not that we immediately fall in love with or hate everyone we meet, but we definitely relate on an immediate human level before our mind and logic kicks in. It’s an uncontrollable heart-to-heart thing. Our emotions are simply a lot faster than our head. Humans are immediately in communion with each other.

One theologian expressed it this way: “*...it is the spirit’s native condition always to have gone outside itself in order to be with another.*”

Another wrote, “*The heart has its reasons of which reason knows nothing of.*”

Our spirit is always probing ahead of our heads, trying to discern our surroundings, looking to find common ground with other spirits. We sometimes recognize when we feel immediate kindness – or disgust – toward another person, but recognized or not, we always instantly relate on a pre-logic level. That’s how humans interact. Nothing we can do with this but to accept it as a “super-power” that humans (and dogs too, apparently) have.

Admittedly, encountering others is not always all sweetness and light. *Sometimes* the hair on the back of our neck stands up when we meet someone and we instinctively know that the pain and chaos this person is experiencing will infect us too unless we’re careful.

After all, if you’re interacting all day with people who are under enormous stress, expect *their* stress to have an effect on you too. We naturally carry and reflect each other’s joys and sadness. That’s just how we humans are wired. If you find yourself at home after work arguing more with your spouse or consumed with an urge to kick the family dog, stop for a minute and consider who has been rubbing off on you that day. The dog deserves better from you, as, no doubt, does your spouse.

This pre-rational natural reaction can be both good – it immediately helps us know what is going on – and bad – relating to people with problems can be both stressful, very tiring, and occasionally dangerous. People immediately rub off on each other, which is why your mother always cautioned you to pick your friends wisely.

#### **b. Power differences**

There’s no way around the fact that enforcement officers are in the business of controlling others ... for the specific purpose of fixing a problem ... NOT for the fun of controlling others.

*I once saw a televised interview, from prison, with an unsuccessful armed robber. Liquor stores were his specialty, and he was often caught because he tended to hang around too long. When the interviewer asked him, since he was so unsuccessful and seldom got much money anyway, why did he continue to rob liq-*

*uor stores? His answer was, "It's the power, man!" For him there was nothing that beat the feeling of holding a gun on other people and their having to do what he ordered. Power can be a very strong narcotic; worth going to prison over, apparently.*

Whether it be residential code enforcement or stopping professional criminals from dumping hazardous chemicals or scrap tires, environmental enforcement boils down to an officer trying to stop a violator from doing something the violator wants to do. "Trying" because it doesn't always work out the way the officer wants it.

In this chapter one extremely important point is that when an enforcement officer interacts with a citizen over illegal dumping, a Public Health Nuisance, or other act of polluting, it's an important time to be really aware that there is an enormous power differential involved. The officer:

- (1) Represents the power of local government;
- (2) Is probably wearing a uniform, badge, and possibly a weapon (where police also do code enforcement);
- (3) Knows the details of the law or code being enforced and exactly how the person is in violation;
- (4) Is well-experienced in dealing with exactly the sort of violation he or she is there to discuss; and,
- (5) Hopefully, is trained and experienced in dealing with conflict.

Since all of these are on the officer's side, the power differential inherent in the situation favors her authority, knowledge, and experience. Officers should remember what a powerful impact their presence in any situation actually is. They've already got the power; no need to throw it around or be ungracious about it.

Without fail, the violator will experience himself as being controlled by the enforcement officer, which is seldom a good experience for the violator. Since nobody likes to be controlled, the violator usually tries, in many ways, to *himself* control the officer and the situation. In addition to the general difficulties that people bring to the encounter, there is often this other control drama going on.

*For example, an eighty-two year old retired attorney friend of mine, who is as pleasant a person as you could imagine, was absolutely livid when a code officer in his city told him that a board used to cover a hole on the exterior of his house – up high, close to the roof – had to be painted to comply with city code. My buddy pretty well went nuts, trying to control the situation by screaming at the young officer about how totally unreasonable the city ordinance was, how other home owners were also violating the same ordinance, and so on. All the normal things that code enforcement officers hear every day. But the officer, to his credit, wouldn't back off, and the board was eventually painted.*

*Later I asked my friend, "Was the code enforcement officer rude or pushy?" and he replied, "No. He was fine. I just don't like being told what to do by the city."*

At least his response was honest, but I know that in the moment when the officer informed my friend that he would have to paint the board, my friend actually did get plenty hot. His financial cost was just about zero; the emotional cost was, at least to him for a moment, outrageous. Nobody likes being controlled.

In fact, five years later all you have to do to get a rise out of this fine man is to ask him, "*Hey ... did you ever get around to painting that board the city ordered you to paint?*" He'll take the conversation from there. He's right back in the moment again. Nobody likes being controlled ... even to the smallest degree. Code officers run into situations like this every day.

Lately my friend has turned to a new approach, catching flies with honey, so to speak. Now he writes glowing letters about specific code enforcement officers to the mayor. Now I think the code department is actually looking the other way, just a little. I'm afraid that he is getting shameless about his manipulative tactics.

At the other extreme is a situation in which a police officer stops a pick-up pulling a small trailer with a couple of 55-gallon drums on board for having a tail light out. There is no telling what is actually in the barrels, but they are marked as holding corrosive hazardous waste (*one*

*definition of hazardous waste is having a pH of 12.5 or greater or pH of 2.0 or less ... not hard to do).* The waste was generated by a metal cleaning process at a local company. The company had paid the driver a couple of hundred dollars to “get rid” of the waste. Unknown to the officer making the traffic stop is the fact that the driver, who operates a “We’ll dispose anything – for a fee!” business, is very familiar with state criminal environmental laws. More familiar than the officer in this particular situation. After all, the driver IS a professional!

He knows that transporting hazardous waste for disposal to any location that doesn’t have its permits (to operate as a hazardous waste disposal site) is a criminal violation of Texas Water Code Sec. 7.162(a)(1), which carries a potential penalty of a fine to \$50,000 and/or ten (10) years confinement. That’s why he is carrying a handgun under the seat, in case he’s stopped.

Although the driver knows that he is present at a felony crime scene, the officer stopping the pick-up often simply doesn’t (since so few patrol officers receive training in spotting environmental violations). The officer thinks the stop is about the tail-light; the driver knows that what’s a stake is evading arrest on a felony. In this situation, the issue of “Who will control whom?” has the added importance to the violator of his possibly winding up in prison. So here the issue of control takes an added officer safety importance. It would have been helpful if the officer had known the Texas environmental criminal laws – at least the felonies – so that he would have a better idea of what he might be up against.

When the issue of controlling another person comes up, as it does in every enforcement situation, different agendas always arise.

*For the violator, the issue may well be, if the violation is serious, “How much am I willing to lie to get this officer to leave me alone?” or possibly, “Am I willing to use my gun to avoid going back to prison?”*

*For the officer, the question may well be, “Am I willing to abuse my powers to get what I want from this guy?” Such abuse of power may involve misquoting the penalties involved (I once knew an of-*

*ficer who intentionally misquoted “twenty-five thousand dollars and twenty-five years in the pen” as the penalty for almost ALL environmental violations); threatening immediate arrest for very minor offenses; forcing people to undertake immediate cleanup under threat of arrest; fabricating the details of a case; or, taking some other “short-cut” the officer personally decides is effective. All of these boil down to abuse of power. There’s no mentally healthy reason to do any of these.*

So in this example the Power of Legal Authority is up against the Power of Armed Desperation.

**One human tendency in these confrontations is the simple fact that *People with power seldom give it up willingly*.** Even the good guys. Even me and you. That’s something to ponder anytime we realize that we ourselves have some power in any situation. “Ethics” invites us to reflect on our own behavior in this regard. Are we willing to reform ourselves, if necessary, and stop using power in abusive ways ... but which may produce results we like ... in the short-run anyway?

### **3. Preparing yourself for the encounter with the other person**

*Anytime a person is about to enter a potentially conflictive situation, she needs to become very self-reflective.*

#### **a. Attitudes are controllable in yourself, but not in the other**

The more in control you are of your own emotions, the more effective you will be in any situation.

#### **b. Blind alleys: racism; sexism; classism; ageism**

When it comes to getting their way, people can become very manipulative, which the other person almost always immediately realizes. Lies are quickly detected. After all, we’ve all been subject to advertising and televised news for decades. We can tell when things are not right. There are some other “knee-jerk” tricks western humans may use to control situations. Our culture has developed four *really* nasty arguments that many of us are willing to use to keep power safely in our own hands, or to resist somebody else using power to control us. Please don’t give in to the temptation to use any of these:

- Racism ..... The notion that people of one race are naturally better than people of other races; in America this usually is the erroneous notion that “white” people are better inherently than people of color. We’re on the verge of having useful conversations about race in this country. Don’t tolerate racism infecting your work. Treat all humans in such a way that should you ever be accused of being racist, everybody who knows and works with you will immediately find this charge to be ridiculous;
- Sexism ..... The notion that people of one gender are inherently better than people of the other gender; in America this is usually the notion that males are naturally better than females. Don’t go down this blind alley either;
- Classism .. The notion that people of one economic or social class are better or worse than those of another; in America this is often at work in our thinking that different rules should apply to the wealthy than to the poor. Unfortunately, some “higher” class persons are so incredibly awed by themselves that their arrogance can create special enforcement issues. A former priest at our church once said that when men come to him complaining that they can’t find any imperfection to confess, he usually suggests that the sin of “inordinate pride” might be a good place to start; and,
- Ageism ..... The notion that people on one end of the age continuum are inherently better than people on the other end; in America this often plays out as a bias in favor of younger people at the expense of older Americans.

These will each and all rot your soul a little every time you stoop to using them. In the case of “classism,” the point is *not to be surprised* when you run into a supposedly “higher class” person who is overwhelmed with his own awesomeness. Don’t be impressed, but don’t be surprised. Lots of folks are overly impressed with themselves.

With all of these “-ism’s” the best approach is to simply treat everybody with respect and uniformity. You’ll seldom go wrong following this approach.

The truth of the matter is that, underneath the insults, things are *actually* pretty well as you learned in Sunday school: God loves everybody equally, which must be why He created such incredible human diversity.

- Moreover, as far as I can discover through extensive theological study, all souls are pretty much all the same color (that’s it for *racism*);
- They don’t have any reproductive plumbing (so much for *sexism*);
- All souls have the same amount of interest in wealth, namely, none (there goes *classism*);
- And are all the same age, namely eternal (which makes *ageism* a big waste of time).

Consequently, when you encounter (either in yourself or in others) arguments that are based on racism, sexism, classism, or ageism, just don’t tolerate them. Those arguing techniques are all for chumps.

These supposed differences between people are entirely on the surface, so don’t buy into any notion that they are important. Or as Paul says in the book of Romans, *“Do not conform yourselves to this age but be transformed by the renewal of your mind.”*

If you will be scrupulous in removing any lingering touch of those four assumptions from your own thinking, you’ll be well down the road to more trustworthy interactions between yourself and other people.

#### **4. The other person always is in an unknown state**

##### **a. Mental condition of the person the officer is encountering**

Unless you or your city has had prior experience with an individual (and keep extremely accurate information that is available to officers), you simply never know the mental health of the person with whom

you're about to interact. An officer can find herself interacting with a mentally ill person at just about any point of her day.

Some statistics on mental health and substance abuse are included further along in this chapter, and additional information can be obtained at many web sites, including <https://tinyurl.com/e424nmsw> (John's Hopkins Medicine).

Another good source of information on this is the Centers for Disease Control and Prevention. Their report: *Mental Illness Surveillance Among Adults in the United States* reads:

*"According to the World Health Organization, mental illness results in more disability in developed countries than any other group of illnesses, including cancer and heart disease. Other published studies report that about 25% of all U.S. adults have a mental illness and that nearly 50% of U.S. adults will develop at least one mental illness during their lifetime."*

Mental illness can sometimes become noticeable when interior mental disarray spills over to show itself inside the home and eventually spills out into the front yard, where it attracts community attention.

Responding to the disarray, municipal code enforcement staff may find themselves dealing with untreated mentally ill and substance abusing members of the public. Consider this tragic well-known situation:

*Commerce code enforcement officer Michael "Pee Wee" Walker was just doing his job inspecting the home at 1509 Caddo Street in Commerce in 2005 when he was shot nine times by Adam Ward, who lived at the residence with his father. The house was a regular problem for the city with hoarding going on both inside and outside the place. Ward was executed for the murder in spring 2016. His attorney argued that Ward was "delusional and mentally" ill at the time of the murder, but his conviction was upheld. This tragedy has been widely reported. (<https://tinyurl.com/amv3ycam>).*

*Officer Walker was taking photos of the house from the street when Ward ran inside, got a gun, and commenced shooting.*

When the code enforcement officer arrives at a location, no matter how many times he has been to the property and no matter how routine the visit, the people he is visiting – or someone just temporarily at the location – may be completely insane. In this case, all the officer can possibly control is his or her response to the situation.

*I would also like to pause here just a second to identify what I think is a “corporate sin” related to mental illness that many local governments commit. Most sins are personal, but some are done without thinking by groups of people, usually through not reflecting on their greater responsibilities. One such corporate sin is for environmental enforcement management to fail to provide as much training as they can for their officers on taking care of themselves in situations where they encounter mental illness. Texas certified law enforcement officers must periodically complete training in Crisis Intervention (3843) and De-Escalation (1849). There are no similar state requirements for code enforcement officers, who are actually more likely to encounter a mentally ill person than are police. There’s no reason that code enforcement officers couldn’t attend the same training in this subject as city police or county officers, or attend training conducted by regional MHMR. The fact that only a very few code enforcement managers have arranged for their officers to receive such basic training is, to my way of thinking, a sin. And like most ongoing sins, can be corrected, once acknowledged.*

**b. Situation the person is living that day**

A second factor that the enforcement officer can never control is the reality that the other person is living that day. The person you’ve just caught dumping ten scrap tires out of the bed of his pickup onto a vacant lot may be doing so because:

- He may be an employee following the boss’s criminal directions to dump, and is doing so to keep his job;
- Or an individual dumper may be doing so because of his personal situation. Perhaps has lost his income, he and his family have just been evicted from the house they rent, the landlord

has warned him to not abandon the scrap tires in the garage, and he has absolutely no money to pay for a trip to the landfill. Then he has the dumb luck of being caught in the act of dumping them;

- Or he may be a person consciously breaking the law to save disposal fees.

When the conversation between the officer and the violator begins, the officer has no idea what is actually going on, so the conversation has to unfold.

There is an saying often attributed to Plato, *“Be kind: every person you meet is already carrying an enormous burden of some sort.”* We should begin all encounters with other people with this thought in mind. Folks are already carrying a load before we show up in their lives; COVID and the Winter of '21 have just added to it. This is a time to be extra kind ... and appropriately extra wary.

There's no telling what the last year has done to the other person's finances and mental state. He or she may be primed to explode, so beginning with kindness is the only thing that makes sense. Officers will naturally and quickly factor all of this into their assessment of the situation. All the facts will eventually come out.

##### **5. Expect even more stress as Texas keeps changing**

With or without the last year, the world – and for sure Texas – is changing all the time in ways that impact our work environment, making it more complex. Change generates stress as we are forced out of our safe routines.

Here's just a reminder of a few things going on in our surroundings:

- There's more migration, and Texas is right in the middle of it. Migration “pushes” are increasing: If you were born in one of the “Northern Triangle” countries of Central America – El Salvador, Guatemala, or Honduras – your agriculture economy has collapsed from a combination of a prolonged drought and two back-to-back hurricanes, Eta and Iota, in 2020 (destroying fields and killing hundreds of people in

the process);

- Things are becoming more violent in Central America every day. In cities, there are few jobs, and gangs are taking aim at recruiting the children;
- Studies show that the primary source of illegal weapons in Central America are guns smuggled from the United States. Weapons are legally purchased here and then smuggled into the region where they immediately become illegal, and widely used. The actions of Americans directly contribute to the violence in Central America;
- Heading north to America (and it's a dangerous 2,000 mile trip) is looking more necessary all the time to many people. If it were me, to save my sons from the probability of being recruited into a gang, I might even decide to send the older ones North by themselves;
- Migration "pulls" have increased with the change in administration here and the impact of low birth rates in the United States. American business needs workers. Demographic studies show that each woman needs to produce 2.01 children during her life for a country's population to stay level. In the U.S. our birth rate in 2016 was 1.82; in 2018 was 1.73; and in 2020 was 1.61. This is well below replacement rate for our population. Sperm count is also decreasing worldwide. These factors add up to this: without immigration the size of our population shrinks, and unless we can attract more young workers from abroad, our economy will decline. That's just simple demographics;
- COVID will continue to have an enormous impact on our culture. In our interconnected world, at this point the government of Brazil doesn't think COVID is actually real (as it devours their population), and Africa and Asian countries simply can't afford the vaccines for their populations. Revisions of mortality figures accounting for excess deaths has

resulted in Mexico being the country with the second-highest number of COVID deaths in the world, meaning that Texas sits right in the middle of the countries with the first and second most COVID deaths;

- We still haven't seen what this virus does when it begins to encounter more vaccinated people. India has demonstrated what happens when the virus encounters places putting very little funding into public health. Moreover, diseases usually manage to outsmart us for at least a little while as they mutate to stay effective. New strains apparently transmit between humans more efficiently;
- The bottom line on COVID is that it's probably going to be around awhile, and the economic and human impacts on Texas are bound to be considerable, including:
  - Greater food insecurity (food banks are having a really tough time responding to greater need);
  - Increased homelessness (evictions continue to increase and more folks are scrambling for alternative places to live);
  - Children not having a normal school experience and being more poorly socialized;
  - Increased domestic violence, and more substance abuse;
  - In general, just a whole lot more stress for everybody, too often including having to deal with the unexpected death of a family member or friend;
- Our economic tough times will be persisting for a lot of folks. In too many situations there will just be less funds to spend on property maintenance. Our recovery is being described as "K shaped": one bunch of Americans recovering economically very quickly and another group not yet recovering at all. The top arm of the "K" is headed up; the bottom arm is headed down. Many code enforcement cus-

tomers fall in this second group, where recovery so far is slow to non-existent. For business, lower revenues often translate into attempts to save money on disposal costs (i.e., more illegal dumping) or abandoned operations that will need to somehow be cleaned;

- Climate change is the real deal; nothing has changed in this regard. Even Exxon will tell you that (<https://tinyurl.com/fn7utjpy>). That link is to an older article in *Scientific American* showing the history of internal Exxon company knowledge. In December 2020 the company shifted policy to get more in line with its investors: *“Exxon Mobil announced a new five-year plan to reduce greenhouse gas emissions, including from methane flaring and upstream operations, which it said were in line with the Paris Agreement reduction targets.”* What more energy pumped into the atmosphere means is more extreme weather events of all sorts, responding to which takes municipal worker’s time (<https://tinyurl.com/3bns8tu9>);
- ERCOT is already (April 2021) having trouble keeping up with statewide energy demand. It is likely that there will be power shortages in Texas during the hottest parts of summer. These make people surly;
- Domestic politics. Lord have mercy. Remember in the good old days when some guy decided that his property was part of the Republic of Texas and the codes and state laws didn’t apply and would file a lien against county officials? That process stopped when the State Legislature got involved and made false filings a criminal offense. Those were simple situations compared to the “neighbor-vs-neighbor” conflicts laying under the surface in some enforcement situations today;
- Insert your own unforeseen disaster here. Something totally unexpected will have a bad impact on local environmental enforcement in the next twelve months. It can’t fail to

happen – just like COVID and the Winter of '21 weren't anticipated. And whatever it is will take our time, attention, and resources.

All of these add up to massive change. And change – especially unexpected change – creates *massive* emotional stress, both for our customers, our managers, elected officials, and for our ourselves and our families. We seldom know what particular burdens are haunting the person we are talking with, but invisible burdens are there for all of us. You are carrying your own too, which may pre-occupy your thinking, make you less attentive to detail, and even affect your attitude. That happens to us all.

And there's no way around the fact that when you show up to enforce some code or law, you are adding to someone else's burden. Who knows? Your presence may be the "straw that breaks the camel's back," and, out of nowhere, frustration and anger are headed your way.

Because of these and other factors, local enforcement "customers" may REALLY not be in the mood to have a problem-solving conversation with an enforcement officer just now. People are enormously grumpy and hurting, and who can possibly blame them?

### **C. The Same Challenging Situations Keep Coming Up**

#### **1. People react differently to the same situation**

People – environmental enforcement officers – react very differently to common work-related problems. So the question arises, are there common ethical approaches that have been worked out over the centuries that can provide guidance to officers dealing with these recurring situations?

For example, suppose that three officers lose their jobs for the same reason from the same city: budget cuts that result in staff reductions. Even though all three may have approximately the same financial obligations and resources, each may respond totally differently to such a situation.

- *The first person may experience the situation as a personal attack, fall into depression, begin serious drinking, fighting*

*with his wife, and never work again;*

- *The second acknowledges that change inevitably happens and anticipates that the next job he lands will have its own unique and interesting challenges too; he appreciates the skills he has acquired at his former job; and, he starts actively looking for his next position;*
- *The third decides that this is his great opportunity to go back to school, does so, and changes careers.*

People simply take different relationships to common problems, in accord with the way they were raised, their basic expectations of life, whether they see the universe as being essentially trustworthy or dangerous, the emotional capacities they bring to the situation, their physical and spiritual health, and lots of other variables.

Hence the wise observation that *“Our situation is never the problem; our problem is the relationship we take to our situation.”* That makes perfect sense. Also, as a person ages and matures, the internal factors they bring to a problem situation have become different. What we saw as an impossible situation ten years ago is a cake-walk today.

## **2. Common situations related to enforcement**

Consider the different ways that you have seen officers deal with these common realities of the job of local enforcement. Each of these situations contains challenging ethical content:

- a. The Frustrations of Dealing with an Uninformed Public. The enforcement field is complex and developing, and few citizens know the codes and criminal environmental statutes. Officers are constantly having to explain the law and deal with basic violations, then re-explain again, and then re-re-explain;
- b. The Frustrations of Dealing with a Semi-Informed Public. On the other hand, many municipal codes are online now, which gives a citizen the chance to see with the city has decided to do to respond to certain violations, and what those exact violations are. The same is true of state criminal environmental laws: all of these are published in the *Texas Health and Safety Code*

and the *Texas Water Code* in several locations online. So the public is in a better position to call enforcement officers (or elected officials) and ask such things as “*Why isn’t Texas Health and Safety Code Sec. 341.013(c) being enforced on the property at 1403 Whitaker Avenue? That’s a Public Health Nuisance and it needs to be stopped. And why isn’t our health department following Texas Health and Safety Code Sec. 341.012 to get this mess abated?*” These kind of calls are happening in many jurisdictions now, and can be more annoying than useful at times, although officers generally appreciate the specificity of these reports. Unknown to outside observers, enforcement actions against that particular property may have been well under way for weeks;

- c. Unknowledgeable Elected Officials. Local governmental leaders seldom know their code and criminal enforcement options in dealing with polluters of Texas air, water, and land resources and with those who threaten our public health. Municipal codes go unread, even by those council members voting their adoption (for example, is there a council person anywhere in Texas who actually read the 600 page 2021 International Fire Code before voting for its adoption by their city?). Such ignorance – and, frankly, unwillingness to put in the work – often results in frequent misunderstandings and arguments about what local governments (and officers) can and cannot do. Cities and counties cannot set good enforcement policies unless the elected officials know the options. Every election seems to bring yet another group of uninformed people, and some think they already have all the answers. Some use to say about me that “*I was frequently wrong, but seldom in doubt.*” This seems to be the same approach a few of our elected officials follow. *Failure to put in the time to research a situation before deciding on a course of action* is a common error among the newly elected;

- d. Police May Refuse to Act. Trying to respond to criminal environmental violations with *municipal code* enforcement alone generally doesn't work too well. The fact that few city police departments in Texas enforce the environmental criminal laws puts additional pressures on code enforcement programs, especially where criminal violations have become routine. In some cases, local police departments have refused to enforce criminal illegal dumping laws, generally because the officers and their chief think these state criminal laws are actually local municipal codes of some sort. They are not, of course;
- e. Non-Law Enforcement Reporting Structure In Texas, it is not required that direct supervision of law enforcement officers happen within a law enforcement department. Direct supervisors can be non-law enforcement, but a local law enforcement agency is required to carry the officer's commission (which can make that agency responsible for bad acts by the commissioned officer). A few counties have located their criminal environmental enforcement officer within the county health department or have the officer report to the entire commissioners court. Neither of these structures seem to work very well. As far as the health department is concerned, there is often a conflict between *arresting and punishing criminals* vs. *getting messes abated*. In these cases, the officer and his supervisor simply have different agendas. In the case of the commissioners court, to have four supervisors (five, counting the county judge) is to have no supervision at all. Poor supervision can result in limited program support and loss of officer morale. More importantly, it can also lead to peace officers assuming the roles of on-the-spot prosecutor, judge, and jury in order to avoid watching a case fail from lack of departmental support. Such concentration of power is never appropriate, and usually illegal;
- f. Prosecutor Disinterest. Effective prosecution of criminal environmental cases is a team effort, but local prosecutors some-

times are “too busy” to deal with environmental crime. Occasionally, an immature prosecutor will see himself as “superior” to peace officers because the prosecutor usually has more formal schooling. This “classism” – an example of what was discussed above – can result in the immature prosecutor refusing to learn from peace officers who present cases based on violations the prosecutor didn’t learn in law school. A few polluting companies will not like more enforcement, but voters overwhelmingly hate illegal dumpers. In some jurisdictions, a newly elected prosecutor will bring his defense attorney background into his new job and put great efforts into finding why an environmental enforcement case should be *dropped* rather than *assertively advanced* on behalf of the community. Or, not understanding the environmental criminal laws and too busy to learn, may simply dismiss a case as a matter of prosecutorial prerogative. In these situations, little regard is given to the long hours of work done by law enforcement officers in preparing the case. Prosecutors holding elected office, however, eventually recognize that protecting air, water, land resources and our public health is a great political position;

- g. Why Don’t Local Health Authorities Follow State Law on Abatement? THSC Sec. 341.012 (b) through (d) mandates that local health authorities (the designated physician) work with violators to abate public health nuisances. In responding to public health nuisances local health authorities:
- (1) give notices to abate these nuisances;
  - (2) specify the exact changes that are to take place;
  - (3) decide the time to be allowed the violator to abate the public health nuisance;
  - (4) notify local prosecutors of the problem;
  - (5) return to inspect the location to assure that the public health nuisance has been abated as required; and,
  - (6) where abatement has not taken place notify the prosecu-

tor receiving a copy of the original notice issued.

Upon receipt of such notice that the abatement has not taken place, the local prosecutor shall:

- (7) bring suit against the violator to force abatement, or
- (8) bring the state Attorney General into the situations to effect the suit.

All of these steps are mandated by the state legislature in its efforts to provide local governments the tools they need to keep Texas clean and disease free; none of these steps are optional. However, local health authorities generally fail to (4) *notify local prosecutors of the problem*, and are therefore also unable to do (6) *where abatement has not taken place notify the prosecutor receiving a copy of the original notice issued*.

This in turn means that the local prosecutor, who actually knows nothing about the situation at all, cannot do the last two steps to force the abatement. There is additional discussion of this in *Chapter 8: Public Health Nuisance Enforcement*. Local enforcement officers often encounter situations where some other link in the enforcement chain simply is broken. Persuading local elected officials and their staff to follow Texas laws is not always easy for the enforcement officer;

- h. Abatement is Not Always Immediate. Additionally, in criminal cases actual abatement of the dumped litter or solid waste may have to wait months until a plea agreement has been reached or for a final adjudication in a case before the mess is actually abated. This leads to citizens assuming that “nothing is happening” on particular in-public-view cases and the error of thinking that the city or county is actually doing nothing. In fact, the often-slow process of local enforcement may well be working its way through the court system. In other cases, especially where small volume illegal dumping or public health nuisance waste lingers, the assumption that “nothing is happening” may be absolutely right. See pages 89 – 92 for an option;

- i. Bosses Protecting the Violator. Sometimes the violator is a relative, a source of funding, a business partner, or is otherwise connected to a local official. Or perhaps violations are linked to a new project anticipated to create jobs in the community, and the officials have decided to look the other way on violations. Protecting the criminal acts of certain individuals and companies in Texas is especially common in smaller communities;
- j. Hard To Find the Violators. Where the violators are not the property possessors, it can be easier to find the victims than the violators. But if an officer is *not* doing everything she can to find the violator, why not? Often catching an absent violator requires the best thinking of code and police officers cooperating with each other;
- k. Mental Illness Abounds. This is discussed a little above, but it's important enough to go over again. There's a great deal of mental illness in the United States, including within many neighborhoods where Texas's enforcement officers work. Mental illness, including substance addiction, is so common in America that literally every family has been affected by it in some way. Throw in a little COVID (and worry over COVID) and forced social isolation, and you've got a real emotionally charged mess. Moreover, the stress of dealing repeatedly with highly emotional situations can impact the officer's own mental health. The code violations themselves may be reflecting a person's inability to cope with reality. Very few code enforcement programs in the state train their officers in the safety issues of interacting with mentally ill citizens; there is no state requirement for code officers in Texas to receive such training, According to Johns Hopkins Medicine's "Health" website (<https://tinyurl.com/e424nmsw>). Pre-COVID statistics cited there include:

*An estimated 26.2 percent of Americans ages 18 and older — about one in four adults — suffer from a diagnosable mental disorder in a given year; and,*

*Many people suffer from more than one mental disorder at a given time. In particular, depressive illnesses tend to co-occur with substance abuse and anxiety disorders.*

Environmental enforcement officers seem to encounter more than their fair share of the nearly 81 million people with mental illness, and the forced separation of people during much of 2020/21 has clearly added to these figures;

- I. Widespread Private Property Myths. These myths can be frustrating for an enforcement officer. Many people, including far too many elected officials, seem to think that a person can do anything he wants to do on his private property, although that's never been true anywhere in western civilization. It is generally not a defense in a criminal case that "*Well, the so-called 'crime' happened on my property ... so I can't be charged!*" In fact, that's almost never the case. For example, if you come to dinner at my house and I steal your car while you're there, it's no defense that I did the crime on my own property. Likewise, if you are hitchhiking along I-10 west of San Antonio and I decide to kidnap you and force you to live in a chicken coup and work in my fields for no pay, the fact that most of this happened on property I owned is no defense at all. It's just straight up kidnapping and slavery (actual Texas case; see <https://tinyurl.com/mhm9spsx>). There are a few exceptions to this, of course. I *may* have the right to shoot you under some circumstances when you're on my property – at night, for example, inside my house without my permission. As to illegal dumping, a property owner can, under *some* circumstances, dispose of very limited amounts of waste on property he or she owns. However, this is seldom done correctly, so most of this kind of waste disposal is simply illegal dumping under THSC Chapter 365. Explaining this, repeatedly, to someone while he is trying to lecture you on the Republic of Texas and non-existent state property laws can be tedious for enforcement officers;

- m. Widespread Distrust of Government. Over my lifetime, Americans have learned to distrust government at all levels. Strangely, people still run for government office on a platform of “*You can’t trust government!*” I have never been able to understand this. Research shows that local governments are seen as being more trustworthy than state governments, and state governments do better than the federal level in citizen support. However, people just don’t trust government very much generally, and that’s whom the officer on the front porch is representing. To this general distrust of government we currently must add the “Pre-Civil War 2.0” vicious nation-wide political arguing we are doing now that is being so destructive to our social fabric.

Officers respond to each of these common situations in different ways. Some “go with the flow” and adapt to changing conditions; others stick around but become crabby after dealing with the same issues for years; some increase their alcohol and drug use; and, some burn out and leave.

#### **D. Tools for Ethical Reflection**

##### **1. Honesty: the responsibility to convey accurate information**

This, I think, is the most important point to be made. I’d like to suggest that in dealing with anybody — from the most law-abiding citizen to the biggest polluter to everybody inside and outside government — local civil and criminal enforcement officers have a primary ethical duty: To represent the codes and criminal laws accurately.

Not only is this far easier than making things up, but also meets the requirements of the Law of Reciprocity. After all, if YOU were facing a possible legal process involving a violation, the first thing you’d want yourself is for the officer involved to be absolutely straight with you about the requirements of the code or law involved. Giving the violator and accurate definition of his or her re-

quired action is the beginning point of changing behavior. But these laws and codes can be complex, and we're living in a time when too many of us simply don't like to read the "fine print."

This is the same requirement and massive obligation of the teaching profession: The last thing any teacher would want to do is to make the student dumber through conveying inaccurate information. Good instructors think about this a lot. I'd suggest that, as a communicator to citizens of these codes and laws, local code and peace officers work to be absolutely accurate as to the contents of the law and the possible punishments transgressions carry. This will probably require extra study.

One of the better statements, in my opinion, that I've seen of this responsibility to convey accurate information is from a 300 year old book on ethics called Mesillas Yesharim, which is translated as The Way of the Upright, written by Rabbi Moshe Chaim Luzato:

*"A person is obligated to put the one seeking his advice on the track of the pure and clear truth."*

One problem we may have in "putting others on the track of the pure and clear truth" is that we may not know what the truth is ourselves! In environmental enforcement it's extremely important to keep doing our homework of reading and understanding the codes and state laws impacting our community.

## **2. Ethics based on religion**

Many decide to structure their decisions along the lines defined by the basic ethical requirements of a major religion, such as Christianity, Judaism, Islam, or Buddhism. For example, to have a standard against which to measure our decisions and actions, we may follow some specific teaching, such as the Ten Commandments (Exodus 20:1-14):

1. *I am the LORD your God, who brought you out of the land of Egypt, out of the house of slavery. You shall not have other gods beside me.*

2. *You shall not make for yourself an idol or a likeness of any thing in the heavens above or on the earth below or in the waters beneath the earth; you shall not bow down before them or serve them. For I, the LORD, your God, am a jealous God, inflicting punishment for their ancestors' wickedness on the children of those who hate me, down to the third and fourth generation; but showing love down to the thousandth generation of those who love me and keep my commandments.*
3. *You shall not invoke the name of the LORD, your God, in vain. For the LORD will not leave unpunished anyone who invokes his name in vain.*
4. *Remember the Sabbath day — keep it holy. Six days you may labor and do all your work, but the seventh day is a Sabbath of the LORD your God. You shall not do any work, either you, your son or your daughter, your male or female slave, your work animal, or the resident alien within your gates. For in six days the LORD made the heavens and the earth, the sea and all that is in them; but on the seventh day he rested That is why the LORD has blessed the Sabbath day and made it holy.*
5. *Honor your father and your mother, that you may have a long life in the land the LORD your God is giving you.*
6. *You shall not kill.*
7. *You shall not commit adultery.*
8. *You shall not steal.*
9. *You shall not bear false witness against your neighbor.*
10. *You shall not covet your neighbor's house. You shall not covet your neighbor's wife, his male or female slave, his ox or donkey, or anything that belongs to your neighbor.*

The Ten Commandments provide a basic set of rules that deal with our relationship to our Creator (first four Commandments), our totally unique relationship to our parents (Fifth

Commandment), and about 99% of the other recurring problems in our other relationships (Sixth through Tenth). These handle most of the practical issues one will encounter. They also can be interpreted broadly to deal with other issues. For example don't "steal" or "murder" someone's reputation by speaking ill of them behind their back.

Every religion has ethical codes similar to these, and many times the principles fundamentally agree with each other. Their purpose is to define "right" action for the followers of the religion by giving a fast way of figuring out the right thing to do in a particular situation. By keeping these rules of basic action in front of us, we'll be less likely to "*explore after our heart and after our eyes after which we stray*" (Numbers 15:39). Instead, we'll be keeping our hearts and eyes on our core values.

But Judaism and Christianity aren't the only religions with moral codes. Some schools of Buddhism, for instance, hold these five ethical norms to be central (passing score for these is 80%, by the way):

1. *Don't murder;*
2. *Don't steal;*
3. *Use sexuality correctly;*
4. *Use language right; and,*
5. *Don't use intoxicants.*

Notice that the more general the expression, the more difficult a rule is to follow. For example, the Seventh Commandment of Judaism seems easy when compared to the Third Commandment of Buddhism. Not committing adultery seems easy enough to figure out, but "use sexuality correctly" may take some thinking.

### **3. Don't just use others for your own purposes**

This is a third ethical principle that may serve you well. The German philosopher Immanuel Kant (1724-1804) is considered by many to be the Father of modern Western ethics and has provided two principles that are key. The first is about how we treat others.

Since each human is unique and important, we shouldn't simply treat other persons like objects to be manipulated to get what we want. He put it in eighteenth century language: "*Act with reference to every rational being (whether yourself or another) so that you treat that being as an end in itself.*" We'd express this today as "*Act in such a way that you treat others as the unique individuals they are, and not just as something to use.*"

Note: This requirement includes treating ourselves as uniquely valuable creations too — and refraining from unreasonable self-use. An example of treating yourself as a means rather than as an end might be wearing yourself out, day after day, by being a workaholic. Everybody has to face the question, "*Am I working in order to live, or living in order to work?*" Using yourself unjustly is as much an ethical issue as using someone else; you're not simply an object to be manipulated either. Our families also pay the price when we treat ourselves as an object: (1) they have to watch us violate our own human dignity; and, (2) we often treat them just as badly. We seldom treat others better than we treat ourselves.

#### **4. Act as you think all humans should in the same situation**

"Categorical Imperative" — Kant's eighteenth century way of saying, "*Do what's always right, everywhere, and for everybody.*" This is an ethical principle that we often use without giving it much thought. Kant expressed this as "*Act in life in such a way that you can at the same time will the maxim of your action to be Universal Law.*" This is a old way of saying that we should act on principles that we would like to have all people follow if they were in the same circumstances we are. We should always act in such a way that we'd like everyone to act if they were in our shoes. Makes sense. Our task is to be very thoughtful about our own actions; act in such a way that what we're doing COULD be the universally true law for that situation.

#### **5. Law of Reciprocity a/k/a The Golden Rule**

A specific way to focus on the previous point is to see it as the "*Law of Reciprocity*" or "*What I do, I will eventually receive*" or

*"What I put into life, I'll eventually get back"* or simply as *"Karma."* Knowing that we'll usually get back what we put into life, hopefully we'll put good acts forward, rather than bad ones. Physical and emotional bullies may well simply be people who have been sheltered temporarily from experiencing the reality of reciprocity.

The idea of reciprocity is has been expressed in just about all cultures as some variation of the Golden Rule: Do unto others as you would have them do unto you. Sometimes this notion is expressed in the religion of a culture — for instance, it appears in both Christianity and Judaism — and sometimes it is not rooted in religion at all; even atheists can agree with this one. It just seems to be how the world is hung together.

A stupid variation on this we often heard as kids was *"Do unto others BEFORE they do unto you,"* or as *"Might makes Right,"* or as *"The one with the Gold makes the Rules."* These are all cynical expressions of the principle that one should exert his power, without limits, to get what he wants in life, and to heck with everybody else. This is the dream of just about every teenage boy. *"Might makes right ... and I'm King of the Mountain!"* is also the ethical principle behind many adventure movies, where the hero uses violence to achieve what is "right" in the audience's eyes. The only problem with this approach is that, finally, we are the "powerful" who loses. There is ALWAYS a person – or army – with more power who is more ready than we are to use violence to get what he wants, at our expense.

A man who abuses his wife by using physical and emotional violence to control her is a good example of a person acting on the ethical principle *"Might makes right!"* Fortunately when the police show up in the situation — to exercise the appropriate level of violence society has authorized to preserve overall safety — the abuser realizes that his ethic hasn't worked as he's hauled off to jail. The officers are sworn to be operating under the principle *"Use might to temporarily stop all other violence until we can get a judge involved."*

Advanced lessons in this may be administered by other inmates in confinement. I also notice that instructors in court-ordered Batterers' Intervention Programs seem to do best if they are the biggest guy in the room. That way the abuser can have his idea that "*Might makes right!*" brought into question immediately. Following this principle will eventually get you crushed, but often not until you have damaged a lot of other folks.

There's a group expression of "*Might makes Right!*" that powerful state legislators exercise when they try to suppress the number of voters having access to the polling booth. All political parties have done this from time to time. When I was younger, one way this was done was through the Poll Tax: Texans had to buy an entry ticket, in effect, to the voting place. Over the years time-after-time we've seen legislators try to impose voting rules that seem "reasonable" to them, precisely because they would limit their opponents ability to vote. In the Deep South sixty years ago, black Americans wanting to register to vote were required to "prove" their literacy by copying by hand a long portion of the U.S. Constitution.

An un-dotted "i" or an uncrossed "t" would be sufficient to fail that test. Somehow, white applicants for voter registration were able to prove their literacy in different ways. (Of course, the U.S. Constitution requires no literacy test to vote; in fact, over our history *most* voters were not literate beyond being able to sign their name or "make their mark.") When these anti-democratic tricks become too outrageous, some federal court declares them to be against the "one-man, one-vote" basis on which our country was formed, and the whole process begins again. These is eternal problem in a democracy: those in power today want to limit "democracy" to those voters supporting them.

However, many of us have decided that the Law of Reciprocity, expressed as the Golden Rule, works best for us. We simply try to treat other people as we would like to be treated ourselves. The Law of Reciprocity just seems to be what actually happens between people too. Over time, people often settle-in and treat each

other in a similar manner. By acting compassionately and with mercy, we shouldn't be surprised to see it reflected back to us, over time. So by following this principle, we're reminded to always be more compassionate.

#### **6. Mercy is more important than justice**

This principle holds that our basic code of ethics should be to always be compassionate, which was one of Jesus' primary teachings. Often what's needed in our dealings with others is for us to show greater mercy — compassion — rather than simply be the dispenser of justice. "Justice" is the process of making sure people get what they "deserve." Lord knows, NONE of us really wants to get what we actually deserve, right? We all stand in need of mercy, not justice.

*In the Clint Eastwood film "The Unforgiven," there's a scene in which the young shooter, The Schofield Kid, has just killed a cowboy who had earlier knifed a woman. The youngster is very upset from having done what was actually his first killing, and is seeking affirmation from Eastwood's character, the notorious murderer, Will Munny. The Kid says, of the dead man, "I guess he had it coming." Munny replies, "We all got it coming, kid."*

Too right. We all need to give and be willing to receive more mercy and compassion as we go through life's difficult journey. Otherwise we may get what we actually deserve!

Being guided by the ethical code, "*Be the source of mercy and compassion in every situation*" can be exactly what is required.

Showing mercy may look different for code officers and peace officers. After all, they usually face very different situations.

*Code enforcement officers, health department officers, and registered sanitarians, for example, are often presented with situations in which the property possessor is mentally ill, disabled, elderly, without financial or family resources, or otherwise absolutely unable to bring the place up to the standards the code requires. This can present a real quandary in many situa-*

tions, yet the codes and health laws must be enforced for the good of all. But the officer may see that not much is to be gained by hammering people in these situations; the wiser and more effective approach may be to apply compassion and understanding and work to get additional resources into play. This always takes time, but may actually result in the problem being solved faster rather than being kicked down the road. Compassion takes more time initially than simply showing one's heart of stone. And it's usually better for everybody concerned, including the officer. This approach may actually solve the underlying problem in the shortest time.

*Peace officers* faced with criminals, however, experience a far different situation. They have the primary job in the community of starting the process that will result in an alleged criminal being prosecuted, possibly found guilty, and appropriately punished, or acquitted. This is a very difficult thing to do. Police must trust that prosecutors, judges, defense attorneys, and juries will all do their jobs, and this doesn't always happen. Where criminal laws have been violated, we absolutely don't want the police to act as judge, jury, and executioner. We want them to act professionally and accurately in identifying the apparent violator and then let the system decide on the appropriate level of punishment or forgiveness. And yet, peace officers are faced endlessly with situations that require wisdom and compassion, such as dealing with mentally ill persons, juveniles, people under extreme distress, and borderline cases where an arrest simply doesn't make sense. Their quandary in these situations is in deciding if what the law is directing them to do is the right thing when applied to the specific situation they are facing. No person can escape the requirement of operating ethically. It's our fate as humans.

Where a criminal law itself is immoral, being expected to enforce it presents a very difficult situation for a peace officer. Before saying that this could never happen to a Texas peace officer, you

might consider that the racial segregation laws in Texas, that existed well into my adult life, were state criminal laws, not municipal codes.

But what happens when a code/RS/health officer or a sworn peace officer *simply doesn't agree* with the laws and codes that he or she has sworn or been hired to enforce, and then intentionally fails to act? Are we to pretend that officers – and elected officials – disregarding these laws is not an ethical issue? I have met plenty of peace officers who simply ignore these violations, sometimes on the grounds that caring for our surroundings is a “liberal” issue that shouldn't take police resources. However, the most “conservative” elected official suddenly discovers that he is in favor of strong enforcement of environmental criminal laws when someone dumps on his own property.

#### **7. Good people naturally do good acts**

This final common pattern of ethical response is often associated with the Greek Aristotle (384 B.C. – 322 B.C.), especially as expressed in his book Nicomachean Ethics. This is a “grandfather” text in the field of non-religious ethics, and is a great place to start for further reading in the field. Its notion is that if a child has been raised to be a good person, he or she will naturally have those character attributes — the “virtues” — necessary to make good decisions in any situation as an adult.

Chief among those virtues are courage and temperance. The virtuous person will also naturally show the secondary virtues that flow from these, such as generosity, balanced ambition, gentleness, friendship, honesty, and charm. In this view, there's no need to remember principles to be applied to various situations; virtuous men and women just automatically do what's right in every situation. Living a life of virtue is the only way to achieve real happiness, according to Aristotle.

In this view, self-discipline is very important: *“The self-indulgent man craves for all pleasant things ... and is led by his appetite to choose these at the cost of everything else.”*

So don't be self-indulgent. Seek the good in your actions, and remember that *"Wealth is evidently not the good we are seeking; for it is merely useful and for the sake of something else."*

The Gospel of Luke (6:45) makes the same point as Aristotle: *"A good person out of the store of goodness in his heart produces good, but an evil person out of a store of evil produces evil; for from the fullness of the heart the mouth speaks."*

#### E. Always Remember the Ripples

We always actually bring with us into any situation two distinct things:

- (1) **Head Skills:** the knowledge, technical skills, and experience that we possess concerning the particular situation (this is what the rest of this book is about); and,
- (2) **Moral Strength:** our ability to discern what is right in a situation and the courage to achieve it. Like any other muscle, our "moral muscle" becomes stronger with use.

Perhaps you are faced with a difficult situation such as this at work:

*The neighbors complained to the city about the tall grass and un-kept appearance of a particular house, and investigating the complaint falls on your desk. This is what you do as a code enforcement officer for the city. You know the neighborhood. It is going through a steady process of gentrification; older homes are being purchased cheaply from original owners, improved, and sold for a much higher price to the young families that see the area as being on the up-swing. The house in question, however, hasn't gone through the process yet, if the high weeds and scattered rubbish in the front and side yards are any indication. When you knock on the door, you have a difficult time getting the attention of anyone inside. You are about to leave a door hanger requesting the occupants contact you when the front door slowly opens. There stands a very old, small, frail woman. She is still wearing a*

*bathrobe even though it is mid-afternoon. She looks to be around 80 years old. As you introduce yourself, you hear a man's voice from another room: "What is it honey? Do I need to come help?" Slightly embarrassed, the lady at the door explains that the question had come from her husband, David, who is wheelchair bound. You listen closely as the lady tells you more. "I just don't know what we're going to do. We're all each other have in the world, and neither of us drives. Our grandson is supposed to bring us groceries every week, but he hasn't come for the last two. I think he's gotten mixed-up in drugs and he may be in jail. Those drugs ruin so many good children. We don't have a thing in the house to eat. David's out of his heart medicine too, and we won't get our Social Security checks to buy more for another week. I just don't know what we're going to do." The woman begins to weep, and you felt tears coming to your eyes too. Then the woman looks right into your soul and says, "Please excuse me. I'm sorry for burdening you with all this. None of this is your problem. How can I help you officer?" You think, "These poor folks have all of these problems, and I'm here about the weeds and a little trash? Oh man!"*

The officer has at least two problems. Her Head Skills, which were sufficient to spot the code violations, may not be sufficient to identify the real issues that are keeping the yard in disarray. Her knowledge may not be sufficient to know, for example, how to proceed in a way that would not only actually deal with the code violations, but also deal with the underlying problems that will make this a chronic enforcement location unless the fundamental problems are somehow solved.

Where she may find the biggest difficulty, however, is in having insufficient Moral Strength to answer the question, "*What should I really do in this situation?*" and act accordingly.

The code officer might find herself saying something like, "*Ma'am, I notice that you're having a little trouble with your yard.*"

*Would it be alright with you if me and my church group caught that for you this Saturday?" This happens all the time in Texas. Humans are like that.*

The study of ethics helps us reflect on what the "right thing to do" might be before we find ourselves in these situations. Is there knowledge or insights that could help us make better decisions? And how do we maintain our physical and spiritual strength to hang in there and keep dealing effectively with these problems as they regularly surface?

This chapter also reminds us that there is a lot more to code and health enforcement than simply informing people that their property needs spiffing up. For example:

- *The code enforcement officer knocks on the door to talk about the weeds and rubbish in the yard; instead, she is confronted with a human situation that breaks her heart, as in the example just given. This raises the subject for the city of "compassionate code enforcement," the process of trying to locate and coordinate community resources to address the underlying problems.*
- *The code enforcement officer shows-up in a conflict situation where the neighbors are arguing with each other about a straying pet dog or the height of one's weeds or where one of them has parked his car. The officer's very presence keeps the peace in so many of these situations. Code and health enforcement officers reduce violence between neighbors, which means the police are less likely to have to respond later to a shooting or fistfight in the street, with the neighborhood kids watching.*

I'm convinced that environmental enforcement is one of the most difficult jobs one can have. Officers come into contact with just about all cross-sections of their community, either as intentional violators; those violating because they simply don't know or understand the law; affected citizens; elected officials who either want officers to *give their friends a break* or *enforce laws without mercy*, depending on the viola-

tor; and, general members of the public. Major factors in the decision making process are the officers own intentions and level of moral development.

Two things are certain however:

- Whatever the officer does she will not please everybody; and,
- Whatever she does will “reverberate throughout a thousand destinies,” and make subsequent enforcement in the community easier or more difficult.

Hence the need to be incredibly thoughtful about the enforcement process.

One last reflection: A few years ago I was teaching a class in El Paso on illegal dumping enforcement to an audience of about forty local code enforcement officers and health department folks. As we warmed to each other in the afternoon, the questions began to stray into a wider area of code enforcement issues than simply learning to recognize and respond to criminal dumping.

A young lady raised her hand in the afternoon and asked the following question: “*Will I go to Hell for doing my job?*”

At first, I thought that she might be joking, but I was wrong. She was as serious as she could possibly be. She went on to explain that she was a new officer and considered herself to be a very religious, compassionate person. She had been assigned to work in one of the poorer parts of the city, where there were virtually no “extra” resources to be used to repair houses and make similar investments. She was concerned that by following the city's enforcement process she had been given, the result would be, in some cases, that a violator had to miss work (and income) to make a court appearance and even, in some cases, be fined money that simply wasn't available.

She *wasn't concerned* about those situations where the choice was between the person getting a lawnmower and gas to mow their lot or spending the same money on beer.

She *was concerned* about those legitimate situations where there were simply no resources that could be allocated to making the required improvements without working a hardship on the family.

I thought that it was great that she was reflecting on her actions to this degree.

After pondering the situation for a few minutes, I assured her that, no, she wouldn't be going to Hell for doing her job, as long as she did it thoughtfully and compassionately. She accepted that evasive non-answer, and we went on with the class. But I continued to ponder on just what *would* be an enforcement situation where enforcing the law would simply be the wrong thing to do.

A few months later, I had occasion to tell this story to an 80 year old Priest/Monk at a monastery in Missouri, a very spiritual guy I've known for several years. He listened intently, and when I had finished, he growled – he was a slight curmudgeon of a monk – *“Well, you told her wrong! LOT's of people have gone to Hell for doing their jobs!”*

Ouch, Father Paul! Point made. We have to consider our actions from the perspective of what we owe others and what we owe our Creator, and we need to do this without ceasing.