

## THE POISON TRAIL

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### How Environmental Cops Tracked Deadly Waste Across the Border

ON A MILD Southern California day in late October, 1988, California Highway Patrol "green cop" Sgt. Lance Erickson swung his unmarked Chevy into a parking lot in an industrial section of Garden Grove. The space was adjacent to the parking lot of the Laminating Co. of America, a firm that manufactures backings for circuit boards. Erickson's partner, CHP investigator Gary Hanson, was perched on a nearby rooftop, where he had a clear view of the firm's entrance and yard. The officers, members of the Los Angeles County Environmental Crimes Strike Force, had tailed Raymond Franco to this business. Now they waited to see what he would do next.

Between them, Erickson and Hanson had staked out hundreds of suspects, always on the lookout for the same thing: an "open window"-copspeak for the opportunity to catch someone committing a crime. In this case, the alleged crime was the illegal transport and disposal of hazardous materials: Franco was a suspected "wastelord," a trafficker in a hot Southern California commodity-toxic trash. It was now Day 2 of the surveillance, and the officers, armed with cameras, were a little restless: So far, Franco had done nothing suspicious, let alone criminal.

Then, as Erickson and Hanson watched from their vantage points, the window to the Franco case blew wide open. Franco and some helpers began loading obviously full 55-gallon barrels-the kind commonly used to store hazardous waste-into two enclosed trucks. They carefully covered the barrels with cardboard, wood and empty drums. By the time the men were done, the full barrels were completely out of sight. "The trucks were plated out of the country; all the labor was Mexican," Hanson explains. "It gave me the suspicion that (the barrels) might not be staying in the U.S."

Hanson, Erickson and other green cops in Southern California had long believed that some unscrupulous American companies and waste haulers were dumping their toxic waste south of the border. Pursuing smuggling cases, however, had proved to be all but impossible. Investigators needed a solid lead and compelling evidence, and, to get it, they needed the assistance and resources of agencies much bigger than the county strike force.

The two officers had scant time to consider the ramifications of what they were witnessing. They simply knew they were onto something. "We took over 300 photos," Erickson says. "I was throwing film up to Gary on the roof. It was amazing; it was developing right in front of our eyes."

As the trucks pulled out of the laminating plant yard, Erickson and Hanson scrambled for their cars and followed the trucks out onto the street.

U.S. LAW ENFORCEMENT officials predict that the clandestine export of hazardous waste will become the international crime of the 1990s-a problem as big as arms or drugs trafficking. The lethal byproducts of industrialization, they say, move across the globe on toxic trails that lead from the developed nations to an unknowing and ill-prepared Third World. Among the poison routes, one of the easiest to follow is Interstate 5, down the center of California to San Ysidro and across the border into Tijuana.

William Carter, a Los Angeles County deputy district attorney specializing in environmental crimes, chooses his words carefully when he talks about the toxic-waste traffic to Mexico. Each day, more than 100,000 vehicles cruise down I-5 and cross the border. Carter is reluctant to guess how much toxic waste slips south. "I wouldn't call it a trickle. I wouldn't call it a flood. I think it's more of a steady stream," he says. When pushed, he will estimate perhaps tens of thousands of gallons a month.

Carter is sitting in his office in the county Hall of Records in downtown Los Angeles. On one wall, a reprint of a full-page newspaper advertisement, part of the punishment for one environmental offender, reads "I Got Caught." Like CHP officers Erickson and Hanson, Carter is a member of the Los Angeles County Environmental Crimes Strike Force—a kind of SWAT team drawn from about a dozen state and county agencies.

The problem, Carter says, is simple. Southern California produces about two-thirds of the state's toxic garbage. In 1988, almost 1 million tons of hazardous waste was produced in the region, according to state health department statistics. With landfills closing and disposal costs running as high as \$1,000 a barrel, the area has become a toxic pressure cooker. For some, the temptation to dump waste illegally, both inside California and across the border, where regulations and enforcement are less stringent, is hard to resist. Dishonest waste haulers and companies, Carter adds, consider Mexico "a big trash can."

It's an offensive crime, he says. "As human beings, we should care about what happens to people down there. . . . Toxic waste is a time bomb. It may go off 20 years from now, but it's no less serious than someone planting a bomb." Such actions will return to haunt us: "It's going to come back to us in some way—air pollution, water pollution . . . the products we buy."

And the "steady stream," Carter says, shows no signs of slowing. "It's like with drugs," he says, almost philosophically. "You can go up to the corner of Broadway and you can get crack any time you want to—if there's no cop there."

U.S. Customs Service officials, who concentrate on looking for weapons, drugs and illegal immigrants coming north, don't always check the southbound traffic at the border crossing. And when they do, concedes Customs Service spokeswoman Bobbie Cassidy, they lack the expertise and on-site testing equipment they need to identify hazardous waste. The Environmental Protection Agency, the federal entity charged with policing hazardous waste, is stretched even thinner: It has only one agent and two investigators to enforce environmental statutes in four Western states, as well as the far-flung U.S. territories of the Pacific. "What can I do?" asks David Wilma, a special agent with the EPA's office of criminal investigations in San Francisco. "I've got people screaming at me to go to Guam and look at what's going on there. . . . The job is so massive . . . I could keep 10 or 20 people busy."

That leaves state and local enforcers, such as the 9-year-old L.A. strike force. Working undercover, conducting border roadblocks, setting up sting operations and prosecuting cases vigorously, the strike force has compiled an impressive record. Carter runs through some of the team's recent successes. It put away the Pantilat brothers, who ran a plating business in North Hollywood and repeatedly poured cyanide-laced waste water down the sewer. And in the case of a toxic cloud caused by leaking barrels of chlorine waste, the strike force nailed a manufacturer of swimming-pool products called Grow Group Inc.; the company was fined more than \$850,000, and the president and vice president of the consumer products division at that time were sentenced to six-month prison terms.

Until a few months ago, however, the strike force had never cracked a smuggling case, let alone landed a conviction. "We heard rumors," Carter says. "We had circumstantial evidence." But they didn't have solid leads. They needed to trace the waste from its American source to its Mexican dumping ground, and to do that, they had to be able to cross the border with it.

"We could only do so much," he says. "We couldn't extend our jurisdiction across the border. Smuggling was bigger than our resources in L.A."

It became clear that the strike force would need assistance to cross jurisdictional boundaries to solve the case. "We're trying to investigate and prosecute cases that involve L.A. County regardless of where they end up," Carter says.

WHEN THE TWO TRUCKS left the laminating company in Garden Grove, one went south, the other north. Hanson followed the one going south; other strike-force members went north. The northbound trucker slipped away from his pursuers. "I didn't ask what happened," Hanson says now. "The officers came back with their tails between their legs."

The southbound trucker was not so lucky. He was pulled off the road near San Juan Capistrano on the suspicion that he was illegally carrying hazardous material. Even if the strike force was correct and the truck was headed for Mexico, members knew they couldn't follow it across the border. And they didn't want the hazardous waste to get away.

Lab samples later revealed that the hidden barrels contained flammable hazardous wastes—a potential health and safety risk. Though authorities say they are not sure where the barrels originated, they determined that the driver, Arturo Carbajal Suarez, was not licensed by the California Department of Health Services to haul waste. He was arrested and charged with illegally transporting the barrels. Suarez told investigators that he had been ordered to take the barrels to Tijuana. He pleaded guilty and served

several weeks in an Orange County jail. But the strike force still did not have a complete case. There were "other facts to check out and leads to follow," Carter explains.

The strike force had had its eye on Raymond Franco, a licensed toxic-waste hauler, and his small El Toro operation-Ray's Industrial Waste-since the early 1980s, according to William Jones, a Los Angeles County Department of Health Services strike-force member. The investigators knew that Franco had a criminal record, which included a conviction for the interstate transportation of a stolen vehicle. They also knew that on a typical day Franco could be found calling on companies that produced toxic waste and offering to take their poisonous problem off their hands and dispose of it, legally, at bargain rates. "He'd point out things that could be violations, and he'd say, 'I can turn you in to the EPA for that,' " explains Erickson, who interviewed many of Franco's clients. "He would say, 'I can show you how to do things right. Let me be your waste hauler. I'll take care of it for you.'" (Franco declined to be interviewed for this article.)

Arturo Suarez helped the strike force make the next move in the investigation: a search of Raymond Franco's El Toro home, which also served as an office for Ray's Industrial Waste. A few weeks after the Garden Grove stakeout, a half-dozen CHP officers showed up at Franco's two-story, stucco townhouse in what Erickson calls a "kinda ritzy" neighborhood. Franco, a stout 58-year-old, was indignant. "I'm a businessman," Erickson remembers him saying while officers carted off all the documents they could find that dealt with hazardous-waste transportation.

Not long afterward, the EPA's David Wilma contributed another solid lead. Wilma passed on a letter he had received from one of Franco's clients that eventually found its way to Hanson. In 1988, according to court records, Barmet Aluminum Corp., an Ohio-based firm with a plant in Torrance that paints recycled aluminum coils for wholesale distribution, made what seemed like a good business deal: For about \$12,000, it hired Franco to dispose of 57 barrels of its hazardous waste. Although investigators estimated that to transport and dispose of Barmet's waste legally would have cost at least twice that amount, a company official said Barmet's owners believed they were hiring a reputable waste broker and paying a legitimate service fee. But the paperwork that was supposed to follow the waste through the disposal process, and ultimately be returned to Barmet, never came through. A Barmet official says that the hazardous-waste facilities that were supposed to receive the company's toxic trash from Franco never did. "What happened was, he defrauded us . . . (of) several thousand dollars," Jorge Eulloqui, Barmet's Torrance division plant manager told one interviewer. "We reported the matter to the EPA."

The hazardous-waste manifests, or shipping documents, seized in El Toro confirmed that Franco wasn't very good with paperwork. "If Franco could get away with it," Hanson says, "he wouldn't file a manifest at all." They discovered other violations like the one Barmet reported: Some of the toxic waste picked up by Franco never went where it was supposed to go. It just "disappeared," Hanson says.

Franco took on the Barmet job with a truck driver named David Torres, authorities learned. Torres' name had already come up: The plates on the truck that got away during the Garden Grove stakeout were traced to him. Torres, 39, lived part time in Huntington Park and part time in Mexico, where he owned a small pottery factory in Tijuana. Later, Torres would tell an interviewer that he hauled material for Franco when his regular business was slow. "I needed some money to survive," he explained in halting English.

The scheme was simple. Torres said he would pick up drums for Franco, as he did at Garden Grove. In return, Franco paid him \$30 a barrel for his services. "I just go to the back of the building and pick up the drums . . . with Franco," Torres said. "I don't know if I do something illegal."

By early 1989, after months of scrutinizing Franco's and Torres' activities, Hanson says, he and Erickson thought they had "the smoking gun, the icing on the cake." Through a CHP connection, they had asked Mexican officials to check out Torres' pottery factory. The report that came back included a description of a sealed warehouse. Hanson and Erickson suspected that barrels of hazardous waste from the United States were inside. But because of what Hanson calls "a lot of red tape," it would be almost a year before he and other investigators found out for sure.

In the meantime, the CHP officers took their investigation to the Orange County District Attorney's Office because the alleged violations took place in its jurisdiction. As their investigation developed, however, it became apparent that what they had might be bigger-a federal case. The CHP officers talked over the case with a federal prosecutor who told them they needed to find the last piece of the puzzle-the location of the missing Barmet barrels. The FBI, the investigative arm of the U.S. Attorney's Office, could pull strings in Mexico that the county strike force could not. In late 1989, the federal authorities came through, and Mexican officials finally gave investigators the green light to search Torres' factory.

In February, 1990, several FBI agents and other investigators gathered outside the Torres pottery factory in a residential section of Tijuana. Some pulled on protective "moon suits"-plastic coveralls and headgear, rubber boots and gloves. Inside the factory, next to rows of finished terra-cotta pots, they found a cache of rusting 55-gallon drums. Many of the drums bore labels identifying their contents as flammable waste, Hanson says, and some had serial numbers on them that matched Barmet's records of its missing containers.

The barrels had long been exposed to the hot Baja temperatures. Some were dented and leaking inside the factory, which was just a few yards from an elementary school. "We couldn't account for all the missing barrels," says Hanson. "It's possible some were (emptied and) sold to locals." (Many poor Mexican families use discarded chemical drums-which often contain poisonous residues-to store drinking water.)

Authorities say lab samples showed that the barrels contained mixtures of industrial solvents such as toluene, xylene, methyl ethyl ketone, acetone, ethyl benzene and 1,1,1 trichloroethane. One concern was that these solvents were highly flammable. "The barrels could have . . . exploded and caused a fire," Hanson says.

Another threat was more subtle. Industrial solvents have the potential to assault every human organ system, according to health experts. Acute or prolonged exposure to xylene can cause central nervous system damage, liver abnormalities and heart problems. Simply inhaling or handling methyl ethyl ketone can irritate the skin, eyes and throat. In addition, high-dose exposure to ethyl benzene can produce pulmonary edema (a potentially fatal buildup of fluid in the lungs). And 1,1,1 trichloroethane is suspected of having caused birth defects in places where it has leaked into the ground water.

The EPA spent a total of \$100,000 cleaning up the solvents. The Barmet barrels were removed in July, transferred into bigger barrels and sealed, then taken to a certified disposal facility in Southern California. Eventually, they were shipped to Texas for incineration.

"Those barrels were just sitting in a warehouse, waiting for someone to fall into them or tip them over," says prosecutor William Carter. "We think such activity is a violent crime and people should pay for that crime with time in custody."

IT'S NOT DIFFICULT to understand why companies might risk the illegal disposal of their hazardous waste. The problem is cost, according to Jack Rust, a 73-year-old former chemical salesman and self-described environmental consultant who helps companies dispose of their hazardous materials. Rust's slicked-back white hair and polyester shirts make him look as though he stepped out of the '50s. In the late 1980s, Rust, while admitting no guilt, paid the EPA cleanup costs of \$10,000 for what a court document called "corroded, distended and leaking" drums of toxic waste allegedly abandoned at the border. Rust, who strongly denies ever having been a waste dumper, acknowledges that in the past, waste generators had some "pretty bad" disposal practices-methods that have been outlawed.

He also can see why some firms turn to operators like Franco. Large firms have the money and personnel to find creative solutions to the problem; mom-and-pop shops do not. As a result, some small operators may find what Rust calls "ingenious" ways to dispose of waste, including hiring illegal dumpers or haulers whose licenses are in order but whose rates are way below the norm. A lot of people in the business, Rust says, "have been in jail and have paid huge fines."

Harry Levy, owner of Gene's Plating Works in Boyle Heights, has another explanation for noncompliance. The laws about what is hazardous, and how it should be dealt with, are complex and changing all the time. "Philosophically, I'm all for compliance if it means a better standard of health for everyone," says Levy, a spokesman for the Metal Finishers Assn. of Southern California. "Who can be against that? It's apple pie and motherhood. But at the same time, the laws should be simple, easily understood, and they shouldn't cost too much." Reading and understanding the Resource Conservation and Recovery Act, a federal law that regulates the cradle-to-grave fate of hazardous waste, was described by one court as a "mind-numbing journey."

The pressures on businesses are only getting worse. Thousands of manufacturing firms and government agencies classified as hazardous-waste producers face strict new federal regulations that observers predict will jack up already-escalating disposal prices. "The average cost of getting rid of hazardous waste in landfills was about \$225 (per barrel)," Rust says. But in May, the EPA announced rules for treating hazardous waste that, he says, will make prices "jump to \$500 to \$600 a drum."

More disposal difficulties in Southern California mean more bad news in Mexico. Besides dumping more waste across the border as laws become more restrictive, companies will move, often to Mexico, smuggling their waste with them. The owner of a major furniture company in Los Angeles told Carter, "You're driving me to Mexico," after his company was cited and fined for disposal violations. Carter says the firm subsequently moved its plating facility to San Luis, Mexico.

American factories in Mexico are supposed to send their hazardous waste to the United States. But despite a 1983 agreement between the two countries, authorities fear that untreated chemical stewards are widespread in Mexico.

Some California firms have discovered ways to comply with the law and beat the high cost of disposal. Their solution is to cut down on the amount of hazardous waste generated in the first place. Since the early 1980s, Borden Chemical Co., a small Fremont firm that manufactures industrial resins and adhesives, has reduced contaminants in its waste water by 93%. In doing so, the firm, whose disposal costs had tripled in recent years, also has saved money. A company official estimates that it has saved more than \$45,000 a year on disposal fees.

Levy's medium-sized firm does decorative nickel and chrome plating. For the last four years, the operation has removed solid material from its waste water, selling it to an Arizona firm that then extracts from it metals that can be sold to refineries. Levy, who must remove any hazardous solids from his waste water to meet local restrictions, says his process is good for two reasons: "It's not hazardous, and the metals can be used by someone else. That's ideal."

Levy says he hasn't saved any money for his trouble, but his disposal method is better than burying barrels of waste in the ground. "It's less of a risk," he says, "so that later, if there's a problem, the regulators won't come back to me and say, 'Harry Levy of Gene's Plating Works, you're going to have to clean this up, and it will cost you \$77 million and your firstborn.' "

While hazardous-waste experts and government officials point to such companies as role models, those firms are the exception, especially among small businesses. How many Southern California companies, eager to get rid of their waste, will be tempted to resort to suspiciously cheap waste haulers or simply pour their toxic waste down the sewer? The strike force has yet to see a drop in its caseload. Sgt. Lance Erickson sums it up this way: "The bottom line is money . . . the almighty buck."

ON MAY 9, Raymond Franco and David Torres were indicted in the first case in which felony charges for international waste smuggling have been filed under a U.S. environmental law. The Resource Conservation and Recovery Act forbids, among other things, the transportation of hazardous waste to an unlicensed facility as well as the disposal of the material without a permit.

Franco was arrested in New York and charged with one count of conspiracy, six counts of illegal transportation, one count of illegal disposal, and one count of illegal export of hazardous waste. He pleaded not guilty and is due to go on trial Dec. 11. Currently free on bail, he faces a maximum sentence of 32 years in prison and a fine as high as \$250,000 per count if convicted. Torres has not yet been apprehended. He had been questioned by authorities and interviewed in Burbank, but once the indictment was filed, he disappeared. He is believed to be hiding in Mexico.

The Franco-Torres case called attention to the need for a way to cut through the bureaucracy that can hamper smuggling investigations. At the time of the indictment, county and federal officials announced the creation of a multi-agency Task Force on Environmental Prosecutions. "We're not by ourselves now, trying to trace everything that leaves L.A. County," Carter says. While the strike force continues to target illicit dumpers within its jurisdiction, he says, the task force stands ready to offer federal assistance when cases involve international violators.

The task force includes the FBI, the EPA, the U.S. Attorney's Office, the CHP and state health department investigators, all working together to solve environmental crimes. A top priority of the group, officials say, is to crack down on the illegal export of hazardous waste from California to Mexico.

Despite the publicity and satisfaction of wrapping up the case, strike-force members aren't necessarily patting themselves on the back. The Franco-Torres cache, they know, is "small potatoes." But it has given investigators valuable insight into the illegal-waste trade between the United States and Mexico. The strike force is now in the thick of a new investigation, one that involves dozens of plating companies spinning their own toxic web to Tijuana. "When you (break a case), you realize how many others you're missing," says Adam Schiff, an assistant U.S. attorney who will be prosecuting the Franco-Torres case with Carter. "It's a huge problem, and it's going to get worse."

Still, the investigation represents a coup. "What was important was we obtained the evidence that Franco caused waste to be transported to Mexico," Carter says. "Now I think we finally have a handle on some of the players."

Investigator Hanson agrees. The Franco-Torres case, he hopes, will help set up good case law "so that there are certain things you can assume when prosecuting these cases," he explains. "One day, it will be as easy to convict illegal dumpers as convicting drunk drivers or auto thieves."

Illicit hazardous-waste traders, Hanson says matter-of-factly, are classic con artists: They try to take advantage of people, and they try to beat the system. He also levels a harsher accusation: "I think of these cases as investigating homicides. Only we're trying to break them 20 or 30 years in advance."

*Credit: Sarah Henry is a staff writer for the Center for Investigative Reporting in San Francisco.*