

Texas Illegal Dumping Resource Center

TIDRC001 Legal / Legislative Update Related to the Profession of Code Enforcement

Note: This document is used in most of our in-person classes as a summary of environmental enforcement in Texas. It is also useful as an overall orientation to our online classes; your test for this class will be based on this information. Although the information in this document is fairly self-explanatory, we have added a few notes like this to help guide you in your reading. All of these notes will appear in this font (although the word “note” will not be used again). The additional notes for your guidance will be set-off in this color.

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Over the last ten years, we have provided over 400 in-person classes in all parts of Texas showing how local cities and counties can make their communities cleaner and healthier by focusing on environmental enforcement. Over those years we have discovered six principles to be in effect in almost all communities. These are shown in Section A.

To begin with, however, there are six basic kinds of anti-pollution enforcement:

- (1) **Administrative Rule** enforcement by the Texas Commission of Environmental Quality or the Texas Railroad Commission (cities and counties cannot do this);
- (2) **Municipal Code Enforcement** by Texas cities who have adopted ordinances and have created an enforcement structure;
- (3) **Criminal Environmental Law Enforcement** by the about a dozen Criminal Investigators at the TCEQ and another six at the Department of Parks and Wildlife;
- (4) **Criminal Environmental Law Enforcement** by specialized county and city officers;
- (5) **Criminal Environmental Law Enforcement** by “regular” city police, county deputies, constables, certain fire marshals, and other local law enforcement officers; and,
- (6) **Civil Environmental Suits** by the Attorney General’s Office reprise nit g the TCEQ and/or Texas Railroad Commission. Until just a few years ago cities and you ties could successfully sue environmental violators also. However, cha get in the last several legislative sessions have reduced the value of this approach.

A. These Enforcement Issues Arise In Every Jurisdiction

1. Stopping local illegal dumping is NOT the TCEQ’s job.

The Texas Commission on Environmental Quality (“TCEQ”) is the state agency responsible for most environmental regulation in Texas. This agency cooperated with local cities, counties, and special districts to keep our surroundings clean, healthy, and tidy. the TCEQ operates from its central offices in Austin and thirteen regional offices around the state. It currently employees approximately 2,800 persons. Most of its regulatory efforts involve enforcing administrative laws (“Rules”) throughout the state. The TCEQ currently regulates

over 385,000 active entities in 73 program areas. Their Central Registry can be accessed by the public online at anytime. Because of the Most illegal dumping occurs where local communities (over 1,200 cities in 254 counties) will discover it long before the TCEQ. Moreover, responding from one agency to large and small violations around the state would be prohibitively expensive. In January 1996 the Texas Natural Resource Conservation Commission (the earlier name of the TCEQ) informed all counties that henceforth all routine illegal dumping enforcement would be a local responsibility. This remains state policy. Consequently, should the TCEQ receive a complaint of illegal dumping, their normal action is to forward that report to local government for investigation and enforcement.

2. You'll not stop dumping using code enforcement alone.

Only about 900 of Texas 1,200 cities have municipal codes to be enforced, and, of course, no counties have municipal codes. Municipal codes prohibiting refuse from being dumped or being present on a property are really designed for residential property use and simply don't cover many areas. Many times illegal dumping in a community is a combination of criminal illegal dumping by outsiders dumping ON the community for profit and garbage and household waste dumping IN the community by local residents. Criminal dumpers seldom respond to code enforcement attempts, even where the code violation dumping penalty has been raised to \$4,000, as is now allows under state law.

3. The laws violated are mostly easy to apply, but new to most peace officers.

Law enforcement officers do not normally study criminal environmental law in their training at police academies around the state. Moreover, prosecutors are primarily exposed to these cases when violations are detected by local law enforcement since attorneys trained at Texas law schools do not normally study state criminal environmental law either. Consequently handling the first cases can be "new" for everybody involved (including the criminal defense attorney).

4. You'll not stop illegal dumping without law enforcement involvement.

Most of the ways that cities and counties can control polluters and pollution is through the application of state criminal laws by police, sheriff deputies; constables; fire marshals; and other personnel authorized to enforce state criminal laws. Where local police are reluctant to become involved, city or county management may have to get involved, since unabated dumping is a major political AND public health problem.

5. You'll not stop illegal dumping by ignoring small businesses.

Such as tire dealers; rental clean out; construction/demolition; oil and gas waste

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6. Getting prosecutors involved is critically important, since your city or county will often be working beyond Municipal Court or JP Court.

No matter how hard a code enforcement officer works to get his or her local police involved in a case, and no matter how hard police, deputies, or constables work to build a case, unless your local District and/or County Attorney are willing to prosecute violators according to state criminal law, the entire process doesn't work. Illegal dumping enforcement is a team sport, and folks at each level are often doing anti-pollution cases for the first time. Cooperation is essential.

B. Illegal Dumping Enforcement in Texas is Generally Done in This Order as Local Enforcement Becomes More Experienced

The Beginning Point is Always BETTER Code Enforcement (If Available)

1. Municipal Code Enforcement (Applies only inside most cities)

Historically, most environmental enforcement has come from code enforcement officers. However, only around 3/4's of Texas cities provide code enforcement processes for their citizens. No counties, of course, provide municipal code enforcement; however, counties achieve roughly the same results by enforcing state anti-pollution criminal laws in unincorporated areas. New provisions in the Local Government Code allow municipal code enforcement fines to be as high as \$4,000 where trash dumping is involved. Also, more cities, large and small, are finding that having their own Scrap Tire Control Ordinance makes sense. Its provisions can be tougher than State Administrative Law.

Local Municipal Ordinances

- Fine to \$500 / \$4,000 (Local Government Code Sec. 54.001)
- Enforced By: Municipal code enforcement officers
- About 900 of Texas' 1,200 cities have city code enforcement; Great starting point to protecting land, water, air, and people; However, code enforcement doesn't work against criminals, such as illegal dumpers; Cities without a municipal court work through JP and use THSC Chapter 341.
- **Consider creating your own codes from state administrative rules if that helps: for example, Houston's scrap tire ordinance is based on a state administrative rule** [<http://www.houstontx.gov/scraptires>]
- Other cities with scrap tire ordinances include Amarillo, Dallas, El Paso, Forney, Fort Worth, Gainesville, Grand Prairie, Harlingen, Huntsville, Laredo, Madisonville, Mineral Wells, Odessa, Pharr, and San Antonio (there are probably others).

MUNICIPAL CODES ARE NOT AVAILABLE FOR USE IN UN-INCORPORATED AREAS.

Two possible DUMPING-RELATED code violations may be involved, depending on the city:

- (1) Code violation for **having** refuse on a lot, penalty to be imposed against the property possessor and/or owner;
- (2) Code violation for **putting** refuse on a lot, penalty to be imposed against the violator [Note: this may be impossible in many cases, leading to the use of criminal laws by police]

Considerations:

- (1) Not all cities have municipal codes of any kind (only 900 of 1,200 Texas cities do);
- (2) Not all cities have codes against **putting** refuse on a lot; some are restricted to **having** waste on a

lot (check your code language);

- (3) When dumper is NOT the property possessor, code enforcement still forces the person possessing the property where the dumping took place to pay for the clean-up. This can easily create political problems for the city and code enforcement officer (for example, a property owner is dumped on by a third party and is still expected by the city to clean up the mess);
- (4) Using taxpayer funds to clean-up behind dumpers — instead of increased enforcement — will eventually become too expensive to continue.

Some cities budget for cleaning private property where possessors or owners have been dumped on. This will work for awhile, but without also enforcing criminal laws against the dumpers themselves, the cost of cleaning will eventually become too great to continue. Simply cleaning-up behind criminals is an unsustainable policy.

From This Point On, It's ALL Criminal Enforcement, Requiring Specialized or General Law Enforcement Officers

Build a local code/police task force to identify and respond to these problems.

Municipal code enforcement works best in helping local property possessors — owners and occupants — keep their property clean and attractive. However, where illegal dumping is taking place, criminal laws are generally being violated. At this point, police need to begin enforcing state criminal laws designed to stop this crime. Don't let your police department push criminal enforcement of state laws off onto code enforcement departments. You need certified police officers to respond to environmental criminals.

2. Public Health Nuisance Violations (Applies EVERYWHERE in Texas)

There's nowhere in Texas where it's allowed to create or possess property having a Public Health Nuisance. Creating a Public Health Nuisance anywhere or possessing property with a Public Health Nuisance is a criminal violation in Texas. Repeated conviction can result in jail time and increased "per day of violation" fines. These criminal law violations are processed in Municipal and Justice Courts for their first offenses. Subsequent offenses would be handled by county courts at law (Statutory or Constitutional). These violations are very similar with municipal code enforcement violations, but the two should not be confused.

THSC Chap. 341. Minimum Standards of Sanitation and Health Protection Measures

- **When code enforcement is not enough, this is the next level to use;**
- Fine of \$10 to \$200 for first offense (JP or Municipal Court);
- Each day of a continuing violation is a separate offense;
- Subsequent conviction ***within one year of first***. \$10 to \$1,000 and/or 30 days jail; or, you may continue to file as multiple "first offenses" at the same JP or Municipal Court;
- Enforced By: Peace officers; County employee trained by health authority in the unincorporated areas [THSC Sec. 121.003(c)];
- Applies in cities and in all areas of county;
- Defines 12+ public health nuisances; **really good for scrap tires;**
- No warning notice to violator required before citation issued; police may give warning tickets if they want to, but no warning is required in the statute;

Don't confuse this law with **THSC Chapter 343**, which **requires** a 30-day notice from the county before a citation can be written. THSC Chapter 343 **ONLY** applies to certain areas of the unincorporated parts of Texas counties. No part of THSC Chapter 343 may be applied to land inside cities and towns.

- **Mandatory** Local Health Authority directed abatement process in Sec. 341.012 widely ignored;
- Generally used for violations by individuals, but should also be routinely charged in addition to other violations whenever the criteria is met;
- Note that Chapter 341 is a fairly long law. However, only a few sections are needed for Public Health Nuisance enforcement: read from the beginning through Sec. 341.019 and Sec. 341.091 (enforcement penalties). The rest covers a wide range of topics not directly related to illegal dumping or Public Health Nuisance enforcement.

Particularly Useful Sections

Sec. 341.013(c) covers most public health nuisances; widely used by law enforcement:

*THSC Sec. 341.013(c) Waste products, offal, polluting material, spent chemicals, liquors, brines, garbage, rubbish, refuse, used tires, or **other waste of any kind** may not be stored, deposited, or disposed of in a manner that **may** cause the pollution of the surrounding land, the contamination of groundwater or surface water, **or the breeding of insects or rodents.***

So if an officer observes a situation where mosquitoes, insects, or rats are breeding or present, this is often the best section to use. Note that almost all illegal dumping violations (#4 below) also include a violation of this section. **If ONLY this section of state law was applied widely and constantly throughout the state, Texas would be spotless.**

Sec. 341.011(7) specifically addresses mosquitoes:

THSC Sec. 341.011(7) a collection of water in which mosquitoes are breeding in the limits of a municipality or a collection of water that is a breeding area for mosquitoes that can transmit diseases regardless of the collection's location other than a location or property where activities meeting the definition of Section 11.002(12)(A), Water Code, occur;

Sec. 341.019. MOSQUITO CONTROL ON UNINHABITED RESIDENTIAL PROPERTY.

(a) Notwithstanding any other law, a municipality, county, or other local health authority may abate, without notice, a public health nuisance under Section 341.011(7) that:

(1) is located on residential property that is reasonably presumed to be abandoned or that is uninhabited due to foreclosure; and

(2) is an immediate danger to the health, life, or safety of any person.

(b) A public official, agent, or employee charged with the enforcement of health, environmental, or safety laws may enter the premises described by Subsection (a) at a reasonable time to inspect, investigate, or abate the nuisance.

(c) In this section, abatement is limited to the treatment with a mosquito larvicide of stagnant water in which mosquitoes are breeding.

(d) The public official, agent, or employee shall post on the front door of the residence a notice stating:

(1) the identity of the treating authority;

- (2) *the purpose and date of the treatment;*
- (3) *a description of the areas of the property treated with larvicide;*
- (4) *the type of larvicide used; and*
- (5) *any known risks of the larvicide to humans or animals.*

THSC Chapter 341 is in force now throughout the state. Local cities and counties do NOT have to “adopt” this law before it can be used; it’s already in force, like state burglary laws.

Considerations:

- (1) Police, deputies, and prosecutors are often unaware of this law;
- (2) May also be enforced by citation by Local Health Authority [see: THSC Sec. 121.003(c)] in unincorporated areas;
- (3) No notice to the violator is required before a citation can be issued (note: this law may be confused with THSC Chapter 343, which is used only in certain unincorporated areas AND which **requires a 30-day notice** by the county prior to enforcement ... don’t confuse the two laws);
- (4) There are actually **two parts** of the enforcement process. Local Health Authorities can do both and often confuse them; peace officers can only do (a):
 - (a) **Criminal Enforcement:** Peace officer or health department issues a citation for the violation (leads to an appearance before a JP or municipal judge for punishment);
Problem with Criminal Enforcement: This law is silent on the judge’s power to order an abatement, so most won’t issue such an order. If your judge does, bring this issue to his attention privately.
 - (b) **Nuisance Abatement:** Health Authority and local prosecutors follow the provisions of THSC Sec. 341.012 to manage the abatement process

Problem with Nuisance Abatement: Local Health Authorities usually fail to follow the process mandated by law found at THSC Sec. 341.012(b)-(d). Failure to follow this process can actually slow down nuisance abatement.

- (5) Consider approach used by some jurisdictions: Issue a citation on first visit; hold charges for two weeks; if violator calls reporting the problem to be fixed, verify, quash the charges; otherwise process. This avoids follow-up on warning tickets by officer and puts responsibility on violator to contact you. Also, subsequent offense within one year carries 30 days in jail; some officers arrest for re-offense within that year.

3. Public Nuisance in MOST Unincorporated Areas

Compare the violations in this law with those in THSC Chapter 341, which applies everywhere in Texas.

(NOT including “agricultural” land and several other rural places)

THSC Chap. 343. Abatement of Public Nuisances

- Note that these violations are not “public HEALTH nuisances”;
- Fine of \$50 to \$200;
- Subsequent conviction at any future date: \$200 to \$1,000 and/or 6 months jail;
- Enforced By: Peace officers; Local Health Department; County employee trained by health authority;
- Defines 13 common rural public nuisances; all **require 30-day notice** from county

before enforcement;

- Use IN ADDITION to THSC Chapter 341; or use ONLY THSC Chapter 341.

Commonly used provisions for dumping:

THSC Sec. 343.011(c) A public nuisance is (not all 12 definitions are shown):

- (1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;*
- (2) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;*
- (3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests;*
- (12) discarding refuse on property that is not authorized for that activity.*

Definitions (see this law for more):

"Neighborhood" means: (A) a platted subdivision; or (B) property contiguous to and within 300 feet of a platted subdivision.

"Premises" means all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property.

"Refuse" means garbage, rubbish, paper, and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.

"Rubbish" means nondecayable waste from a public or private establishment or residence.

Considerations:

- (1) Deputies, constables, and prosecutors are usually unaware of this law;
- (2) **This one law requires 30-day notice from the county before a violation actually occurs;**
- (3) When counties use this law, they often forget about using THSC Chapter 341 also;
- (4) This law doesn't work for most sewage and other "public nuisances" that need immediate attention; 30 days may be too long to wait for action (for example, if scrap tires are holding water where mosquitoes can breed, allowing this to continue for 30 days during a notice period is ignoring the health issues; use THSC Chapter 341 in these cases);
- (5) One very good feature: Judge's order to abate the nuisance is mandatory upon conviction (whereas THSC Chapter 341 is silent on this point).

Because of the mandatory 30-day notice prior to enforcement, THSC Chapter 343 is probably of LIMITED VALUE in dealing with sewage, mosquitos breeding places, and other forms of pollution that are an immediate problem.

Use THSC Chapter 341 whenever you can since there is almost always a violation of THSC Sec. 341.013(c) involved when you are considering using THSC Chapter 343.

4. Illegal Dumping onto Land and into Water (Applies everywhere in Texas)

This is the primary illegal dumping enforcement law used by Texas peace officers. Using this law in coordination with THSC Chapter 341 for Public Health Nuisance violations is generally all that most jurisdictions will need to control illegal dumping. However, if either this law or THSC Chapter 341 are NOT used, it will be very difficult to stop illegal dumping in your jurisdiction.

THSC Chap. 365. Litter

- Enforced By: Peace officers;
- Sets a penalty of Class C, B, or A Misdemeanor or State Jail Felony based on weight or volume dumped (see chart on last page — note that higher fines are authorized for non-individual violators);
- Applies to public and private property; includes disposal, receiving, and hauling activities;
- Section 365.012(j) applies the same penalties to dumping waste in someone else's dumpster without their permission (easier to use than the "Theft of Services" provisions in Penal Code Sec. 31.04);
- Officers should work through the provisions of Sec. 365.012(k) that allow temporary storage of waste prior to its disposal. The word "temporary" is not defined in the statute and will differ from situation to situation.
- This particular law cannot be used for *oil and gas waste* (all the others can).

Those are probably all the criminal laws most jurisdictions will use.

But SOME situations and locations will also need the following:

Notice the radical increase in penalties for violations of Chapter 7 of the Texas Water Code.

5. Felony Water Pollution

Texas Water Code Sec. 7.145. Intentional or Knowing Unauthorized Discharge.

- Enforced By: Peace officers;
- Note the use of defined terms in the law: definitions are in TWC Chapter 26;
- **Penalty for Individual: \$1,000 to \$100,000 and/or confinement to 5 years;**
- Penalty for Non-Individuals: fine \$1,000 to \$250,000;
- Includes dumping oil and gas waste **into or adjacent** to "water" from a "point source" (including a truck) without a permit;
- Each day the discharge is present **in or adjacent to** the "water" can be a separate violation.

6. Misdemeanor Water Pollution

TWC Sec. 7.147. Unauthorized Discharge.

- Enforced By: Peace Officers;
- **Penalty for Individual: \$1,000 to \$50,000 and/or confinement to 1 year;**
- Penalty for Non-Individuals: fine \$1,000 to \$100,000;

- Includes dumping oil and gas waste **into** “water” that pollutes or threatens to pollute the water (will require water testing);
- Each day the discharge is present **in** the “water” can be a separate violation.

7. Basic Oil and Gas Waste Hauling Violations

TWC Chapter 29. Oil and Gas Waste Haulers

- Enforced By: Peace Officers
- Low penalties: \$100 to \$1,000 and/or 10 days in county jail
- Basic violations include:
 - Sec. 29.041. Hauling Oil and Gas Waste (off-lease for disposal) Without a RRC-Issued Waste Hauling Permit.
 - Sec. 29.043. Using Haulers Not Having a Valid WHP.
 - Sec. 29.044. Disposing Oil and Gas Waste in Unauthorized Location
 - Sec. 29.045. Using Unmarked or Incorrectly Marked Vehicles to Haul Oil and Gas Waste

8. Any Violation of 16 T.A.C. Sec. 3.8 Water Protection (“Statewide Rule 8”)

This is the rule under which the Texas Railroad Commission issues annual oil and gas waste hauler permits. The Railroad Commission enforces this rule administratively; however, Texas Natural Resources Code Sec. 91.002 creates a criminal violation (to be enforced by local city and county officers) for any violation of this rule. Usually, where one rule is being visibly violated, closer inspection of the hauler’s vehicle will show additional violations.

Criminal violation: Texas Natural Resources Code Sec. 91.002

- Enforced By: Peace Officers
- Venue is County where violation happens
- Fine is to \$10,000 per violation
- Multiple violations in one situation are common

9. Additional TWC Chapter 7 (Subchapter E) Criminal Violations

In addition to the Public Health Nuisance, Public Nuisance, Illegal Dumping, and Oil and Gas Hauler violations, state law also contains another group of anti-pollution laws in this section of the Texas Water Code. TWC Chapter 7 was created in 1997 in an attempt to concentrate anti-pollution laws in one location to facilitate their use. Consequently, not all of the violations in this section pertain to water violations. For instance, the criminal violations pertaining to illegal outdoor burning are also in this section. Note that these violations can be charged in addition to Public Health Nuisance and Illegal Dumping laws if the defined activity is being undertaken.

- Water pollution; medical waste; hazardous waste; used motor oil; lead-acid (car, boat, motorcycle) batteries; illegal outdoor burning; other laws
- Misdemeanor and felony violations for most things with **extremely high fines** and moderate terms of confinement
- Enhanced for subsequent convictions and/or endangerment or harm to others
- Examples:

HAZARDOUS WASTE VIOLATIONS

Sec. 7.162(a)(1) - Transportation violations

Individual: \$1,000 to \$50,000 and/or 10 years confinement

Other than individual: \$1,000 to \$250,000

Sec. 7.162(a)(2) - Storage violations

Individual: \$1,000 to \$50,000 and/or 10 years confinement

Other than individual: \$1,000 to \$250,000

Sec. 7.162(a)(7) - Release into the environment

Individual: \$1,000 to \$100,000 and/or 1 year confinement

Other than individual: \$1,000 to \$250,000

Sec. 7.163 The same sorts of violations, with added endangerment elements

Penalties range from \$1,000 to \$500,000 or more and/or 15 years confinement

MEDICAL WASTE VIOLATIONS

Sec. 7.164 Various violations by large quantity medical waste generators

Individual: \$1,000 to \$50,000 and/or 10 years confinement

Other than individual: \$1,000 to \$50,000

Sec. 7.165 Similar violations by small quantity generators

Individual: not more than \$1,000

Other than individual: \$1,000 to \$50,000

USED MOTOR OIL VIOLATIONS

Sec. 7.176 Improper discharging used motor oil

Individuals: \$1,000 to \$50,000 and/or 5 years confinement

Other than individual: \$1,000 to \$50,000

Fines triple for subsequent conviction

LEAD-ACID BATTERY VIOLATION

Sec. 7.185 Knowing or intentional unauthorized disposal

Individual: Class A Misdemeanor

Other than individual: Use Penal Code Sec.12.51 to fine to \$10,000

ILLEGAL OUTDOOR BURNING - FELONY

Sec. 7.183 Intentional Or Knowing Emission of Air Contaminant and Knowing Endangerment

Individual: Individuals: \$2,000 to \$500,000 and/or 5 years confinement

Other than individual: \$5,000 to \$1,000,000

Sec. 7.182 Reckless Emission of Air Contaminant and Endangerment.

Individual: Individuals: \$1,000 to \$250,000 and/or 5 years confinement

Other than individual: \$2,000 to \$500,000

ILLEGAL OUTDOOR BURNING - MISDEMEANOR

Sec. 7.177 Violations of Clean Air Act

(5) an order, permit, or exemption issued or **a rule adopted** under Chapter 382, Health and Safety Code.

The Rule violated: Outdoor Burning Rule

[30 T.A.C. Sec. 111 (Subchapter B)]

Penalties: Contradictory (the law is ambiguous: conviction is punishable by EITHER a fine to \$50,000 and/or confinement for up to six months OR a Class C misdemeanor); Discuss with County Attorney

10. Additional Note on Officer Safety

Code enforcement officers knock on doors at properties where suspected violations of municipal codes exist. They get to deal with whomever answers the door, and with whatever mental issues that person brings with them.

Code enforcement officers are generally unarmed (except for in a few cases where cities use police officers to enforce codes too), often wearing no uniform, and often carrying no badge. These are always tense situations, no matter if that tension is recognized or not.

This tension is there because of the structure of the situation:

- (1) The officer represents government authority; and,
- (2) No matter how professionally he or she acts, the officer is there to criticize behavior on some level.

The officer wants the resident to change their behavior: cut the weeds; get rid of the scrap tires; or for the resident to do something he or she probably doesn't want to do AND may legitimately not be able to afford to do. Thus by simply being there the officer may generate emotional reaction ... both in the resident AND in the officer. if things spin out of control.

Moreover, we're at a time when lots of Americans are simply not mentally healthy. The fact that over 20% of the time the officer is probably dealing with a person with a diagnosable mental illness or is a substance abuser can make the interaction more difficult.

When Americans are confined to their homes, encouraged not to interact with other people, and not working, as has been the case over the last two years, they may become even more difficult.

Consequently, city administrators and code enforcement managers have a clear duty to prepare code officers meeting the public to deal with increasingly confrontative and complex human interactions.

As a matter of state law, peace officers are required to receive regular training in dealing with emotionally disturbed individuals. As yet, no similar state mandate exists for code enforcement officers. But there is no reason at all for city administrators to wait until an officer or a resident gets badly hurt ... or killed ... before creating and requiring regular training for these professionals.

THSC Chapter 365 Illegal Dumping Penalties
 [Related to Section B.4. Illegal Dumping Above]

I. Dumping Not Done for Commercial Purpose (i.e., “The purpose of economic gain”)

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|---|---|
| (a) 5 pounds or less; or, having a volume of 5 gallons or less | <u>Class C Misdemeanor</u> (fine to \$500);
(If done by corporation or association: Fine to \$500 under Penal Code Sec. 12.51) |
| (b) Over 5 pounds but under 500 pounds; or, over 5 gallons but under 100 cubic feet | <u>Class B Misdemeanor</u> (fine to \$2,000 and/or confinement to 180 days);
(If done by corporation or association: Fine to \$10,000 under Penal Code Sec. 12.51) |
| (c) 500 pounds but under 1,000 pounds; or, 100 cubic feet but under 200 c.f. | <u>Class A Misdemeanor</u> (fine to \$4,000 and/or confinement to 1 year);
(If done by corporation or association: Fine to \$10,000 under Penal Code Sec. 12.51) |
| (d) 1,000 pounds or more; or, 200 c.f. or more | <u>State Jail Felony</u> (fine to \$10,000 and/or confinement of 6 months to 2 years);
(If done by corporation or association: Fine to \$20,000 under Penal Code Sec. 12.51) |

II. Dumping Done for Commercial Purpose

- | | |
|---|---|
| (a) 5 pounds or less; or 5 gallons or less | <u>Class C Misdemeanor</u> (fine to \$500);
(If done by corporation or association: Fine to \$500 under Penal Code Sec. 12.51) |
| (b) Over 5 pounds but under 200 pounds; or, over 5 gallons but under 200 c.f. | <u>Class A Misdemeanor</u> (fine to \$4,000 and/or confinement to 1 year);
(If done by corporation or association: Fine to \$10,000 under Penal Code Sec. 12.51) |
| (c) Over 200 pounds; or, 200 c.f. or more | <u>State Jail Felony</u> (fine to \$10,000 and/or confinement of 6 months to 2 years);
(If done by corporation or association: Fine to \$20,000 under Penal Code Sec. 12.51) |

III. Dumped for Any Reason (Commercial or Non-Commercial)

- | | |
|--|---|
| (a) Any amount of waste in a closed drum or barrel | <u>State Jail Felony</u> (fine to \$10,000 and/or confinement of 6 months to 2 years);
(If done by corporation or association: Fine to \$20,000 under Penal Code Sec. 12.51) |
|--|---|