



Environmental Courts

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If you have ever tried to stop illegal dumping or other practices that can create unpleasant living conditions, you know there are associated headaches. Recently, some communities have instituted a court system that may reduce many of the hassles associated with justice. Called an *environmental court*, this legal system has been designed to promote rapid, yet fair, enforcement of environmental regulations.

Some community officials have found that environmental courts can:

- free criminal courts to concentrate on more serious offenses
- result in better compliance with existing laws
- lead to quicker convictions of more violators, and
- improve attitudes of community members toward environmental issues.

This fact sheet is intended to provide background information about the existence, benefits and drawbacks of environmental courts. It is not intended to promote or lobby for this form of legal system in Pennsylvania.

History

The nation's first environmental court was established in Indianapolis, Indiana in 1978. An ordinance review by the Indianapolis Clean City Committee provided the catalyst for its formation. Each day, city inspectors were reporting 45 violations of the city's waste management and environmental codes. The committee recognized the need for a special court to hear environmental cases. It was proposed to the Mayor, who in turn, urged the establishment of the environmental court.

In July, 1978 the court was formally organized and a judge was appointed. The judge's main task was to change attitudes and behaviors of people. Sanctions included standardized probation, which required responsible parties to work with inspectors to rectify

violations. Fines were imposed for violations that were not corrected. The judge also made certain that the punishment reflected the severity of the crime.

Today, 25 environmental courts exist in various communities throughout the United States. Their dockets are reserved exclusively for violations of local health, safety, housing, building, fire, solid waste, and litter ordinances. As prosecutions begin to increase, greater compliance with local environmental laws has become a reality.

Environmental Court, Memphis, Tennessee

One of the most successful and best known environmental courts was established in May, 1983 in Memphis, Tennessee. All environmental violations of the municipal code relating to health, fire, housing, building, and zoning codes have been transferred to this court. The court concerns itself with four major areas of environmental violations:

Health code: There are about 12,000 reported environmental complaints each year in Memphis relating to the health code. These complaints involve a variety of charges.

Rat harborage or rat infestation: It is unlawful to let any materials accumulate that can provide food or shelter for rats.

High weeds (noxious growth): Landowners in the city must keep all weeds, grass, and noxious growth cut and clipped.

Litter control (illegal dumping): There were an estimated 3,113 illegal dumps in the Memphis and Shelby County area that needed to be addressed.

Sale of possibly contaminated food: This can pose a serious threat to consumers.

Defective plumbing: Especially important is water accumulation, which provides a breeding ground for mosquitoes.

Nuisances: It is unlawful to cause, keep or permit any material, substance, or condition which is likely to become a public nuisance.

Housing code violations: In one year, the Department of Housing Improvement answered 5,444 complaints. The department issued 3,702 violation orders.

Fire code violations: Violations in this area include locked or blocked exit doors, failure to remove hazardous material, dangerous accumulation of waste materials, failure to install smoke detectors, failure to install proper fire protection systems, and failure to secure vacant buildings.

Building and zoning violations: Violations include but are not limited to pursuing commercial interests in an area zoned residential; alleged sales of private goods on public property; construction without proper permit; and construction that does not meet code standards.

On the positive side, since formation of the court, the city has seen better compliance with environmental regulations and inspectors have had a renewed enthusiasm for their work.

Establishing an Environmental Court

To establish an environmental court in a community, the strategy must include researching issues, planning and organizing meetings, and getting municipal agencies involved. The most important factor is to demonstrate the benefits that existing environmental courts return to citizens and to the environment.



Researching the Facts

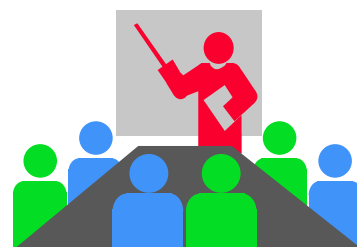
Here are a few things to consider when trying to build support for establishing an environmental court:

- Find out which local agencies enforce environmental regulations that are of interest to environmental courts. These may include building, fire, safety, public health, housing, and solid waste authorities.
- Obtain information about the number of violations that enforcement officers encounter on a weekly, monthly, or annual basis.

- Learn how many cases are heard annually and determine how many of them could be prosecuted by an environmental court.
- Determine the feasibility of establishing a court specifically for environmental regulations.

Involve the People

- Write to people at each agency, department, civic organization, or court that would be involved in the new court's formation. Also include the mayor, council members, presiding judge, administrative clerk of the court, city or county attorney, county board, and other influential community leaders.
- Hold an informational meeting to explain the concept and gain consensus on the need for the court.
- Learn the location of the nearest environmental court.



Consider sending a representative from the group to observe the court in action.

Plan Systematically

- Collect copies of all applicable ordinances to define the jurisdiction of a new environmental court.
- Determine if the ordinances require revisions to strengthen enforcement or penalties.
- Set the court's guidelines.
- Determine the method required for the formal organization of a court and plan the steps for filing all documentation.
- Identify potential judges who may serve on the court.
- Determine budgetary considerations that have to be addressed, including additional personnel and operating costs.
- Legislation and ordinances, if required, must be written and passed by the governing body of the jurisdiction served by the court.
- Guidelines must be determined for sanctions, such as



finer, community service, or incarceration.

- A system for channeling cases to the environmental court must be specified.
- Everyone involved with the new court, including the court reporter, clerk, and attorneys, must be oriented to the environmental court and its objectives.



Focus on Results

- Hold periodic meetings of the organizing group to gather and distribute information about the new court's activities.
- Encourage the court to conduct

training sessions for agency inspectors on how to prepare stronger cases for prosecution.

Provide Reinforcement

- Hold a press conference to announce the court's formation.
- Conduct a public awareness program to educate citizens about the court. Emphasize that its major function is to change attitudes about waste handling and environmental or health concerns, and not necessarily to levy fines or penalties.
- Monitor the number of cases filed, the time between filing and action, and any attitude and behavior change.

Pennsylvania

In Pennsylvania, environmental courts do not exist at the community level, as they do in Memphis or Indianapolis. Environmental cases concerning violations of municipal ordinances are heard in criminal court.

At the state level, Pennsylvania has the Environmental Hearing Board. All environmental cases concerning violations of Department of Environmental Protection (DEP) regulations are heard by the board. If either party is not satisfied with the verdict, they can appeal to the commonwealth court. This board does not apply to local environmental ordinances.

Whether an environmental court will exist in Pennsylvania depends upon the enthusiasm a community would show toward establishing such a court. In Memphis, environmental neglect became such a problem that the community, as well as the local government, got involved and worked together to establish a court. The complexity of environmental

cases has caused other states to provide special environmental law and science training to judges on a voluntary basis. The Environmental Law Institute (ELI) located in Washington, D.C., has presented such judicial training in 13 states.

Keep America Beautiful can help provide guidance and assistance to new environmental court judges. They have identified over 35 environmental court judges in 25 communities who can assist individuals and their community in establishing an environmental court. To obtain a list of these judges, contact Keep America Beautiful at (203) 323-8987.

Summary

Environmental courts have been shown to help solve community problems such as illegal dumping, open burning of waste, and health code violations. Environmental courts also help resolve the problem of overburdening courts with large numbers of criminal cases. Environmental cases can go to one court specific to them, instead of being sent to other divisions where the violations pale in comparison to rape, murder, and arson cases. An environmental court can bring about a change in attitudes within a community. Compliance has increased in areas where environmental courts have been established, and more violators are being punished.

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