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## Poisoning for Profit: The Mafia and Toxic Waste in America

Geoffrey Garver  
*University of Michigan Law School*

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**POISONING FOR PROFIT: THE MAFIA AND TOXIC WASTE IN AMERICA.** By *Alan A. Block* and *Frank R. Scarpitti*. New York: William Morrow & Co. 1985. Pp. 361. \$17.95.

Toxic wastes and the Mafia represent two of the most cancerous elements — pervasive, seemingly without cure, causing sporadic outbursts of suffering and death — in contemporary American society. Independently, each can evoke reactions of fear, anger, and frustration in anyone desiring healthy and peaceful conditions in this country. That these two terribles enjoy a growing interdependence should give one pause. In *Poisoning for Profit*, Alan A. Block<sup>1</sup> and Frank R. Scarpitti<sup>2</sup> argue that organized crime's deep involvement in illegal toxic waste dumping warrants heightened attention by the public and those entrusted with protecting the public welfare.

The book begins by refuting the notion that illegal toxic waste dumping, especially when organized crime is involved, can be controlled simply by reporting incidents to the proper authorities. In the first chapter, the authors introduce New Jersey State Police Detective Sergeant Dirk Ottens and New York Police Officers William Grogan and Stanley Greenberg, three of the noble figures in this book who discovered, largely by chance, that organized crime figures dump toxic waste. These men also learned that their superiors, for whatever reason, were not interested.<sup>3</sup>

Chapter One identifies inadequate environmental regulations, which are examined in later chapters, as ineffective in thwarting Mafia infestation of the toxic waste disposal industry. The authors contend that aside from technical problems in the regulations, regulatory and law enforcement agencies are falsely optimistic about the regulatory potential of environmental laws, and slow to acknowledge their abuse. Government officials avoid countless difficulties merely by claiming

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1. Associate Professor of Criminal Justice at the University of Delaware and Director of Research for the New York Senate Select Subcommittee on Crime since 1981.

2. Professor of Sociology at the University of Delaware and former President of the American Society of Criminology.

3. Grogan suspected that Yonkers city officials were collaborating with organized crime figures, but his boss "was more a political cop than a professional one; promotions came to those who did not investigate City Hall." P. 25.

that the existing regulatory scheme is a "fully-found system that [will] both regulate and control the toxic waste problem" (p. 19).

With that introduction, the book turns to the history of toxic waste generation and regulation. Starting with asbestos problems in Ancient Greece and lead poisoning in Rome, and shifting abruptly to the Industrial Revolution, the authors note that "[e]ach technological advance seemed to come accompanied by an unwanted toxic by-product" (p. 36). In the twentieth century, with the introduction of petrochemicals, the toxic waste problem exploded.<sup>4</sup> Hazardous waste generation continues to increase,<sup>5</sup> and safe disposal methods remain incapable of handling the total amount of waste generated. The result, even without the participation of the Mafia, is an environmental crisis manifested by disasters like Love Canal in Niagara Falls (pp. 39-43), PCB-infested milk in Indiana (p. 38), and the "Valley of the Drums"<sup>6</sup> in Kentucky (p. 38).

Legislators, who began to confront environmental problems in the early 1970s, were slow to recognize the hazardous waste dilemma. Not until 1976 did the Resource Conservation and Recovery Act (RCRA) and the Toxic Substance Control Act (TSCA) emerge as the first federal legislation designed specifically to control hazardous waste disposal. The authors focus their attention on RCRA, which they describe as "something of an EPA stepchild, languishing in unfulfilled promises, never being permitted to reach its admittedly limited potential" (p. 58). Block and Scarpitti argue convincingly that RCRA caused industries to shift from the traditional practice of disposing toxic waste at their own facilities to the less expensive and potentially more damaging practice of contracting with waste haulers to dispose of toxic waste. Since RCRA regulated waste *disposal* rather than waste *generation*, "generators soon learned to ask no questions about the ultimate destination of their waste" (p. 60). Thus, RCRA unwittingly provided illegal dumpers, including organized crime, with the opportunity to make large profits by undercutting legitimate disposal enterprises and disposing of wastes on highways through open valves, in fuel oil, and, most critical to the Mafia's involvement, in solid waste

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4. The authors provide details of one disastrous incident — the Chemical Control fire in Elizabeth, New Jersey, in 1980. Chemical Control started as a legitimate toxic waste treatment facility that, when forcefully taken over by the Mafia, became a storage ground for thousands of drums of toxic chemicals. As the situation worsened, the New Jersey Department of Environmental Protection (DEP) finally took control of the site. Unfortunately, the drum inventory actually increased during the time that the DEP's contractor was supposed to clean up the site, and in September 1980 the site mysteriously caught fire. "If any number of . . . factors had been slightly different, the Chemical Control fire might have become one of the nation's worst disasters, entirely manmade and completely avoidable." P. 250. Chapter Nine is devoted to the "Chemical Control Nightmare."

5. "Within the decade of the 1970s alone, it is estimated that the production of toxic wastes increased five times." P. 37. The authors do not document this figure.

6. The "Valley of the Drums" was a seven-acre site containing an estimated 17,000 improperly disposed drums of toxic chemicals.

bound for solid waste landfills.<sup>7</sup>

To Block and Scarpitti, Mafia involvement in hazardous waste disposal was predictable not only because of the potential for easy profit,<sup>8</sup> but also because of the Mafia's existing, documented domination of the solid waste disposal industry at the time RCRA was passed. The authors describe in detail the structure and operation of Mafia control both of the disposal business, and of ancillary businesses such as loan-sharking. In addition, they discuss various state and federal investigations into activities of organized crime.<sup>9</sup> These investigations typically led to convictions of major organized crime figures, but failed, according to the authors, to produce any "structural changes . . . within the waste industry" (p. 83). The reader begins to realize that one of the keys to organized crime is that while no single individual involved in organized crime is invincible, even extensive enforcement efforts leave the system as a whole undaunted.

Another theme of the book, however, is that enforcement efforts themselves are difficult to initiate and carry out effectively. To illustrate, Block and Scarpitti return to the experiences of Dirk Ottens and introduce a new hero, John Fine, a former Manhattan district attorney and member of the New York State Organized Crime Task Force. Both Ottens and Fine encountered resistance from their superiors when they presented evidence of organized crime involvement in the hazardous waste disposal industry and requested permission to investigate further.<sup>10</sup> When asked to testify before United States Senate hearings on organized crime, Ottens was accompanied by a high-ranking official of the New Jersey Division of Criminal Justice. The authors describe the official's mission as one of "damage control" (p. 164): The official ensured that the investigators did not ask questions that would permit Ottens to reveal evidence of state government corruption or ineptitude. For his efforts in exposing Mafia involvement in toxic waste dumping, Ottens was relieved of any further role in those investigations. Fine, whose experience in New York was similar to Ottens', was fired from his job with the Organized Crime Task Force.

Ottens and Fine, according to the authors, are not isolated examples, and "damage control" is a key element in state enforcement policy. *Poisoning for Profit* contains numerous anecdotes indicating

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7. Pp. 60-62. The Mafia has an established domination of the solid waste disposal industry in New York and New Jersey. The extent of this domination came to light largely as a result of United States Senate investigations led by Senator John McClellan in the late 1950s. Pp. 68-75.

8. The authors characterize the Mafia not only in the traditional terms of "hierarchical structure, dependence upon violence, monopolistic control and influence, and immunity from the law," but also, and more significantly, as an organization "which provides services that cannot be supplied as efficiently or as cheaply by legitimate enterprises." P. 64.

9. See note 7 *supra*.

10. Ottens' boss "virtually exploded" at the suggestion that the Mafia was involved in toxic waste dumping. P. 143.

complicity of state officials in the schemes of organized crime.<sup>11</sup> But in addition to covering up corruption, damage control reflects the idea that “[o]fficials in charge of city and state departments and agencies are, of course, anxious to establish that they are not responsible for either past deaths and diseases or current and future disasters” (p. 197). In sum, say the authors, “[o]ne can never discount the complexities of law enforcement, and the fact that protection and exposure are so often deeply wrapped in unknown interests and complex ambiguities” (p. 178).

The authors then turn to two perplexing questions. First, what is the situation beyond New York and New Jersey? And second, what legal mechanisms are appropriate and adequate to remedy the toxic waste dilemma?

According to a survey of the United States Senate Permanent Subcommittee on Investigations, sixteen states acknowledge a nexus between illegal toxic waste dumping and organized crime. Amazingly, New York was not among those states, suggesting to the authors that the survey underestimates the geographic scope of the problem. The Permanent Subcommittee concluded that “[w]hile the solid waste industry is influenced by organized crime in many areas of the country, . . . the same influence is not present in the hazardous waste industry” (p. 280). Extrapolating from the situation in New York and New Jersey, on the other hand, Block and Scarpitti perceive a problem national in scope. To bolster their argument, they note that the leading national hazardous waste management industries — SCA Services, Browning-Ferris, Waste Management — have all been linked with the Mafia. The authors’ evidence is considerably more tenuous in this section than in other sections of the book.

From a legal perspective, the main shortcoming of *Poisoning for Profit* is the authors’ failure to analyze sufficiently the ineffectiveness of enforcement initiatives and existing statutory efforts designed to curb organized crime. Perhaps this genre of investigative journalism is inherently ill-equipped to provide for such an analysis; whatever the reason, the authors’ simplistic conclusions warrant development.

The authors first attack the waste-manifesting system mandated by RCRA under which all parties handling hazardous waste, from its production to its ultimate disposal, must pass along an inventory of the waste. Block and Scarpitti find the system ineffective because quantities reported by generators are not matched with those reported

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11. At one point, Ottens, who was investigating illegal dumping by Duane Marine Salvage Corporation, found a copy of an affidavit he had submitted in confidence to a state judge in the files “of a notorious toxic waste dumper and organized crime figure . . .” P. 147. The affidavit contained the name of one of Ottens’ informants, and the judge had assured Ottens that the document would be kept private. In addition, “the business agent for Duane Marine Salvage Corporation . . . had a brother who was the chief of investigators for the Division of Criminal Justice.” P. 141.

as properly disposed. "The system would only work to deter law-breakers as long as the principals believed someone, somewhere, would check" (p. 313). Moreover, RCRA's requirement that waste generators, transporters, treaters, storers, and dump operators obtain operating permits is easily circumvented (p. 57). As the authors recognize, permits are freely granted, even to organized crime figures. Unfortunately, the authors fail to discuss possible regulatory strategies for denying permits to members of organized crime.

In the final chapter of *Poisoning for Profit*, the authors take a curious diversion into the failures of the Reagan Administration's EPA. While this is certainly an interesting topic in its own right, here it serves only as a distraction bearing little relation to the rest of the book. They note that the Reagan EPA has conveyed the message that "[i]ndustry did not have much to worry about from an administration that did not plan to enforce the law" (p. 319), at a time when federal environmental investigators need more enforcement power and better coordination with state and federal justice departments. The authors call for increased federal involvement in enforcement, reiterating the contention, unpopular in the Reagan Administration, that states have proven themselves prone to ineptitude and corruption. They add that federal involvement is also appropriate because hazardous waste dumping is an interstate problem, in that hazardous waste from one state is often transported for disposal in another.

The authors also suggest that the public curb consumption of goods whose production yields toxic by-products. However, they offer no legal incentives to discourage consumption, undoubtedly because American law is generally averse to major incursions into individual lifestyles and freedom of choice. Do the authors really expect the public to boycott styrofoam hamburger containers in response to the invisible threat of toxic wastes? Block and Scarpitti's proposal seems naïvely idealistic.

Finally, the authors suggest reform in environmental statutes and in the use of existing criminal statutes designed to curb organized crime. In most states, illegal dumping and other environmental statute violations are misdemeanors afforded low enforcement priority (p. 331). If convicted, violators are often treated as white-collar criminals, and the fines imposed fall far short of the probable profits they make through illegal disposal. The authors suggest that in addition to imposing harsher penalties on toxic waste dumpers, the Racketeer Influenced and Corrupt Organization Act (RICO) be employed to deter organized crime's involvement in the practice. Unfortunately, the book's discussion of RICO lasts less than a page (pp. 338-39), the authors merely noting the stricter penalties imposed by the statute. They also shortchange the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), which imposes liability

on a broader range of defendants than does RCRA. The authors refer to CERCLA early in the book (pp. 59-60) but fail to mention it when discussing potential solutions in the final chapter.

The mass of evidence revealed in *Poisoning for Profit* sounds an alarm bell, because whatever the involvement of the Mafia in illegal disposal of hazardous waste, the potential consequences to the public welfare are disastrous. The authors' readable journalistic style and persuasive evidence are the book's strengths. Much of their argument emerges gradually through the anecdotal strands, most involving a dedicated law enforcer pitted against corrupt or inept government officials and organized crime figures, that appear and reappear throughout the book. In addition, Block and Scarpitti have amassed an impressive network of sources, some providing information from within the clutches of organized crime. Some reviewers have criticized the authors' investigatory techniques and their unquestioning reliance on the credibility of their contacts.<sup>12</sup> Nonetheless, the sheer bulk and logical organization of the evidence yield the convincing conclusion that, at least in New York and New Jersey, organized crime is involved routinely in illegal toxic waste dumping. Block and Scarpitti have made an important contribution — if *Poisoning for Profit* is taken seriously by legal scholars capable of developing a more solution-oriented approach to the problem the authors identify.

— Geoffrey Garver

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12. See, e.g., Martens, *Martens' Comments on Scarpitti and Block*, ACJS TODAY, Sept. 1985, at 3. Martens, a member of the New Jersey State Police, challenges the authors' conclusion linking the Mafia to toxic waste dumping. Such a reaction from a state law enforcement officer fits soundly into Block and Scarpitti's damage control theory.