

MERRILL LYNCH'S BIG DILEMMA

**ITS STRONG BROKER SYSTEM IS NOW A COSTLY
HANDICAP IN A DEREGULATED WORLD**

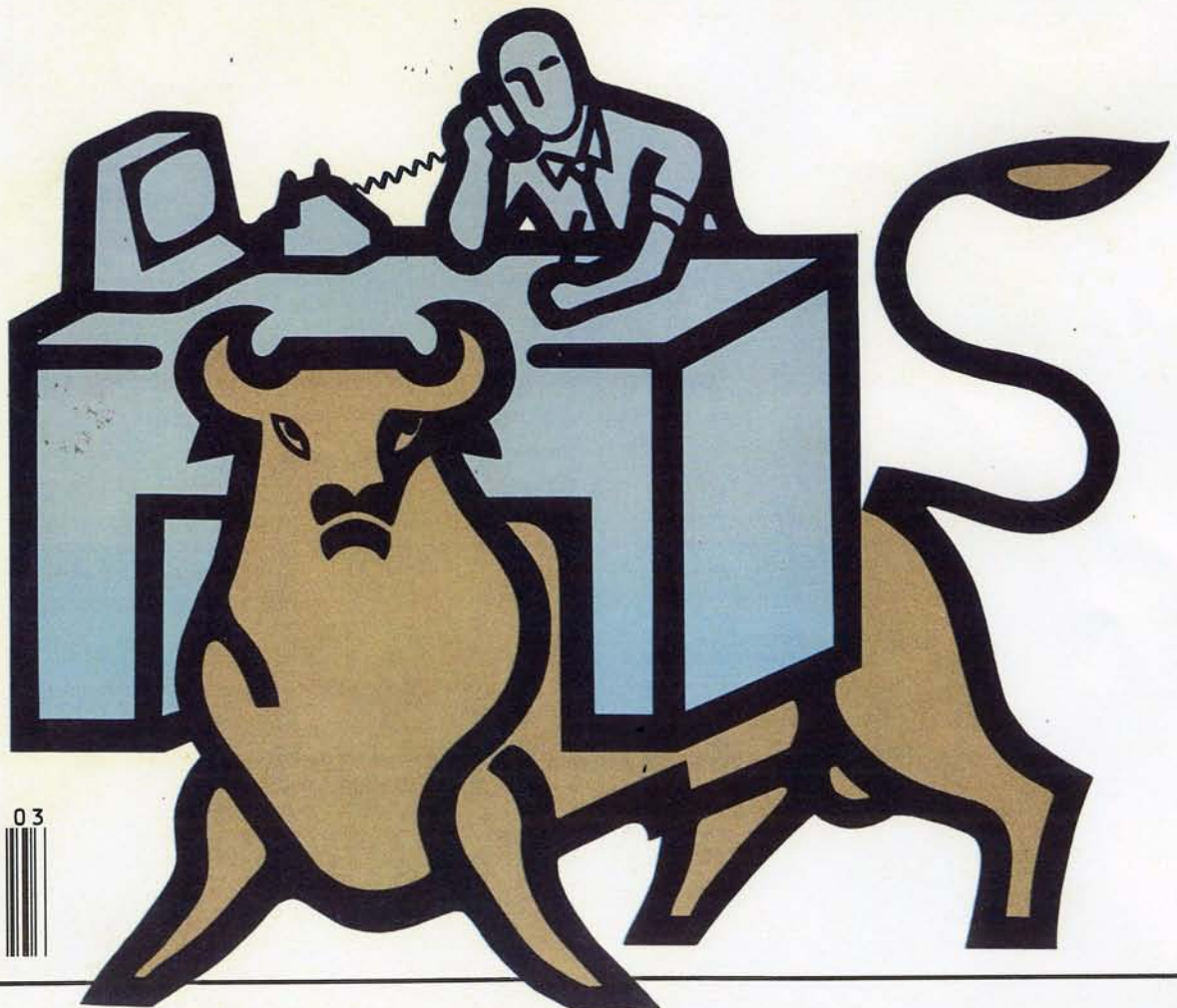
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LOS ANGELES THROWS THE BOOK AT TOXIC DUMPERS

When Barry C. Groveman joined the staff of the Los Angeles City Attorney, the 30-year-old lawyer was prepared to wade into the seamy side of life, but he hardly expected that his new duties would include crawling through city sewers at three in the morning. Yet as chief of the city's Toxic Waste Strike Force, Groveman has found that descending into manholes is critical for gathering evidence against illegal dumpers of toxic chemicals.

For several months in 1983, Groveman and his colleagues made frequent forays into Los Angeles sewers to collect data from the sophisticated instruments they had planted. The instruments were monitoring the discharges from a plant owned by Aaro Inc., a battery recycling company the city has since charged with pouring dangerous acids down the drain.

Groveman's willingness to go to almost any length to collect evidence against such toxic dumpers has paid off. Since its inception in June, 1982, the strike force has built a reputation as the toughest and most effective group combating illegal waste disposal in the U. S. It is aiming to do away with token fines for polluters: The strike force would rather see a hard-nosed policy of jailing the executives of companies convicted of illegal waste disposal.

UPPING THE ANTE. "There are tremendous economic incentives to be dishonest; we've got to send people to jail and thereby raise the ante," insists Groveman. His boss, Los Angeles City Attorney Ira Reiner, agrees: "Your basic white-collar executive who makes a decision to dump toxic chemicals believes a fine is simply the cost of doing business. We have to make jail the cost of doing business."

So far, the strike force—which draws on investigators from the city's fire, police, and sanitation departments and the Los Angeles County Health Dept.—has a perfect record. Of the six cases filed, three have sent top company executives to jail; the other three are pending.

In July efforts by the task force resulted in the first jail term ever handed down by a California court for illegal disposal of hazardous wastes. David Peairs, then president of the local franchise of Culligan International Co., was convicted on charges that included pouring about 12 tons of carcinogenic chromium wastes annually into city sewers.



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Chief of the Los Angeles Toxic Waste Strike Force

The force's most recent conviction, on Dec. 9, resulted in the stiffest penalty ever meted out in California for hazardous waste dumping: a four-month term for the owner of an electroplating shop caught discharging cyanide-containing wastes into the sewers.

Groveman's biggest case is still pending. In late November, the task force filed a 341-count complaint against Todd Shipyards Corp., one of the nation's largest shipbuilders, and Todd Pacific Shipyards, its San Pedro (Calif.) subsidiary. Eleven Todd employees are accused of arranging for the illegal disposal of nine electrical transformers containing polychlorinated biphenyls, which have been linked to cancer, liver damage, and birth defects.

There are few, if any, city or state governments that can match the get-tough policy of Los Angeles in hazard-

ous waste enforcement. The federal government certainly cannot. Budget cut-backs by the Reagan Administration crippled the ability of the Environmental Protection Agency to develop cases for the Justice Dept., and only 13 hazardous waste cases have been brought to court. In 1981 the EPA budgeted \$11.4 million for a hazardous waste enforcement operation that had a staff of 311. But by 1984 its budget had been cut to about \$3.5 million and the staff slashed to 75. The EPA, says Groveman, does "a lot of talking but isn't doing anything."

CASES THAT STICK. Some states, however, have tried to fill the void left by the lack of federal enforcement. "Most of us at the state level feel that EPA's enforcement policy has been a joke," says James J. Lyko, an assistant attorney general in Maryland who heads a state strike force. But most states do not have a track record that is much better than that of the federal government. Maryland, for example, has successfully prosecuted 20 cases since 1981, but only one case resulted in a jail term. New Jersey set up an experimental Interagency Hazardous Waste Strike Force in 1981 but lost its federal funding after a congressional committee, headed by Representative John D. Dingell (D-Mich.), leveled charges of ineffectiveness and mismanagement' against the program. Since

then the strike force has produced several long jail sentences, including one seven-year term that is under appeal.

Behind the success of the Los Angeles effort has been an ability of the strike team to build cases that would stick. When city agencies acted independently, they turned up only a handful of cases. And the few that won convictions typically resulted in a small fine because many judges were not treating waste dumping as a serious crime. "Defendants would come into court laughing and saying, 'Look at those bureaucrats bungling,'" notes Groveman. "So, we started to realize that we had to build cases that were so solid that defense attorneys would not challenge them."

AIR SURVEILLANCE. Groveman's investigations often begin with complaints from informants who work for companies suspected of illegal dumping. The task force then constructs a profile of the company's operations by examining all available documents, such as waste discharge permits. If that check confirms initial suspicions, the investigators set up ground or air surveillance of the plant. They also begin surreptitiously monitoring the company's waste discharges with analytical testing equipment.

When an investigation is completed, a search warrant is obtained and Grove-

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man himself leads a raid on the facility. Investigators extract company records from computers and collect and photograph physical evidence. When the strike force raided the Aaro battery plant, they caught startled workers in the act of dumping suspect materials. One worker believed that the invaders were searching the area for illegal aliens, a common occurrence in Los Angeles, so he continued pumping waste down the sewers, smiling as police photographers snapped his picture. The raid led to a 73-count indictment against the company.

Federal officials are all for these tougher local enforcement efforts. Gene A. Lucero, the EPA's director of waste programs enforcement, says that because of the "limited" resources at both the state and federal levels for enforcement of environmental laws, it is "extremely important" that such places as

Los Angeles put together this kind of task force.

At the same time, the EPA is trying to step up its enforcement activities. The agency has asked for a hazardous waste enforcement budget of \$6 million in 1985, which will allow it to boost its enforcement staff to nearly 200. New management brought into the EPA by Administrator William D. Ruckelshaus has clearly endorsed the renewed enforcement effort. "We're in a little better shape," says the EPA's Lucero.

But EPA officials argue that the agency's criminal enforcement efforts have been crippled because the investigators lack full police powers. This past year, Courtney M. Price, the EPA's assistant administrator for enforcement, twice asked Justice Dept. officials to deputize its investigators, but was turned down both times.

No matter what happens at the EPA, the Los Angeles task force is not planning to let up. Says Groveman: "I want to be even more hard-line about jail sentences. We have people who endanger people's lives by putting poisons into the environment, and it's hard to put them in jail. At the same time, we have people going to jail for many years for skimming profits from a casino. Which do we think is more dangerous?" ■