Woburn, Massachusetts is a small, industrial city on the outskirts of Boston. Throughout the eighteenth and nineteenth centuries Woburn was a major leather manufacturing center with as many as 20 tanneries in operation at one time. Between 1853 and 1929, the Woburn Chemical Works was one of the largest industrial complexes in America. Centuries of careless toxic waste disposal badly contaminated the soil and groundwater under much of the city, and for many years residents complained that their well water tasted and looked terrible. In 1958, when the city drilled two new wells (designated G and H) to serve the growing population, the city engineer warned that the water was contaminated but the wells were used anyway for domestic consumption.

In 1971, young Jimmy Anderson, who lived in the part of Woburn served by these wells was diagnosed with leukemia. In talking with neighbors, Jimmy’s mother, Anne, discovered that 11 other children within a few blocks of her house also had cancer. Depending on how you calculate the sample size, this was between 2.5 and 12 times the expected rate of childhood cancers. Was this merely a statistical anomaly or an ominous pattern? What might be causing these tragic illnesses? Could it be something in the water?

Although their suspicions were initially dismissed as emotional and unscientific, Woburn residents finally learned in 1979 that the water from wells G and H was indeed contaminated with a variety of metals and organic solvents including several suspected carcinogens. Coming just a year after a similar revelation about chemical contamination and links to childhood diseases at Love Canal in Niagara, NY, this discovery encouraged Anne Anderson and others to begin to ask who was responsible for polluting their neighborhood. In 1982, just a year after Jimmy died, Anne Anderson and seven other families whose children also had cancer sued the W. R. Grace Company and Beatrice Foods for damages caused by
negligent disposal of toxic wastes on their properties near the wells. The families were represented by attorney Jan Schlichtmann of the public-interest law firm, Trial Lawyers for Public Justice of Boston.

Both Grace and Beatrice immediately filed motions for dismissal, claiming that even if they had dumped toxic wastes, the plaintiffs couldn't prove which of the many pollution sources in Woburn was cause of a specific disease in a particular person. These two corporations were chosen as targets out of all the possible industries in Woburn, their lawyers argued, simply because of their deep pockets. The judge ruled, however, that the case had sufficient merit to proceed to a jury trial. After four years of interrogatories, deposition of hundreds of witnesses, thousands of pages of documents, extensive examination of medical histories and physical conditions of each of the plaintiff families, and investigation of the industrial sites, the case finally went to trial in 1986. In the discovery process, the plaintiffs conducted their own on-site investigation that revealed drums of toxic chemicals buried on the Grace property. Conviction on charges that the company had lied to the EPA about when and where wastes had been disposed didn't help the defense in the civil trial.

After a five-month trial and seven days of jury deliberation, the case against Beatrice was dismissed, but the jury found that Grace had negligently contaminated the Woburn wells. The jury could not decide, however, when contaminants from the Grace property might have reached the wells. Was it before or after the children developed cancer? This uncertainty led the judge to dismiss the verdict and order a new trial. Rather than go through the process all over again, both sides agreed to settle for $8 million. Grace also agreed to participate in a $68 million cleanup of the wells, the most expensive Superfund project in Massachusetts at the time.

Because the case was settled out of court, it doesn't create a legal precedent, but it was one of the first times that plaintiffs succeeded in gaining compensation in an environmental injury lawsuit. As a story of a few local families challenging corporate giants, it gained national attention, and served as a warning to corporations that they can be held liable for personal injuries from negligent disposal of toxic wastes. A 1995 novel by Jonathan Harr about this case, titled A Civil Action, was turned into a movie by the same name starring John Travolta and Robert Duvall. Check out the novel or movie if you'd like to see more about how the drama unfolded.

This case illustrates both changing attitudes in the United States towards waste disposal and environmental liability as well as use of the courts to redress personal environmental injuries. In this chapter, we'll examine both how environmental policy is formed as well as how the legislative, legal, and administrative systems work to accomplish policy goals.