

Special Needs Analysis – Environmental Enforcement

Purpose

The Ohio Revised Code allows solid waste management districts the authority to fund a number of activities that are not related to achieving the goals of the state solid waste management plan. This evaluation examines the performance of the Environmental Enforcement Program.

Background

In 2018, Hamilton County R3Source (R3Source) and the Environmental Crimes Task Force (Task Force) established a program (Environmental Enforcement Program) in Hamilton County to prevent illegal dumping and prosecute violators. The Environmental Crimes Task Force includes representatives from:

- Hamilton County R3Source
- Hamilton County Sheriff's Department
- Hamilton County Prosecutor's Office
- Hamilton County Public Health
- Keep Cincinnati Beautiful
- Cincinnati Department of Public Services
- Cincinnati Health Department

Together, the Task Force investigates reports of environmental crimes, including:

- Littering and Illegal Dumping (ORC 3767.32A)
- Theft of Trash Service (ORC 3767.32B)
- Illegal Disposal of Construction and Demolition Debris (ORC 3714)
- Unlawful Transportation of Scrap Tires (ORC 3734.83A&D)
- Open Burning or Open Dumping (ORD 3734.03)
- Unsecured Loads (ORC 4513.31)
- Prohibiting Polluting State Land or Water (ORC 1531.29)

R3Source contracts with the Hamilton County Sheriff's Department (Sheriff) and reimburses the Sheriff for the cost of the salary of a Sheriff's Deputy, as well as the costs associated with a vehicle, uniforms, and maintenance to assist in the enforcement of open dumping and scrap tire disposal as outlined above¹.

As part of the contract, R3Source also pays for the Sheriff's Deputy to:

- Attend and participate in group meetings, presentations, training, and other outreach efforts
- Collaborate with Cincinnati Health Department on enforcement of Cincinnati Municipal Code
- Respond to emergencies/accidents
- Train to maintain certifications required by the State of Ohio or the Sheriff
- Obtain certificates required by the State of Ohio or desired by the Sheriff
- Attend court appearances and travel to and from court

¹Golf Manor, Green Township, and Colerain Township have their own environmental enforcement officers.

- Take vacation time, sick holidays, and personal days
- Work on and assist Hamilton County Public Health (HCPH) staff with environmental crimes such as escorting staff during inspections, serving warrants, and water quality dumping/environmental health nuisance complaints²

Each month, the Sheriff provides R3Source with an invoice certifying the amount due for services provided and expenses incurred. The monthly submittal also includes a report detailing the following activities:

- Investigations conducted, including the type of investigation
- Mapping coordinates to visually present complaint locations
- Inspections of tire retail stores
- Felony arrests
- Illegal scrap tire transporters arrested
- Misdemeanor arrests
- Felony convictions
- Misdemeanor convictions

Process

Hamilton County individuals who see an illegal dump or pile of tires in Hamilton County, Ohio, complete a Citizen Tip Form for the Environmental Enforcement Deputy to investigate. Citizens can find the Tip Form on the R3Source website and FixIt Cincy app. They can also submit a tip by phone at 513-946-7788. Law enforcement, municipalities, townships, or health departments can fill out an additional form called the Environmental Enforcement Referral Form.

Suppose an investigation shows that an individual or business violated a relevant provision of ORC Chapter 3734. The deputy will either work with the entity to resolve the situation or issue a notice of violation. After two warnings, the Sheriff will cite the entity for either a misdemeanor or felony violation. The Hamilton County Municipal Court, Criminal Housing, hears these cases, where one judge is assigned to all environmental enforcement cases, currently Judge Bouchard. Hamilton County does not dedicate prosecutors to environmental enforcement cases. The City of Cincinnati appoints a dedicated solicitor for several months and then rotates the solicitor. Currently, fines remain with the court to recover its costs. However, there may be an opportunity to allocate some portion of fines to the Environmental Enforcement Program.

Complaints, Citations, and Convictions

Table H-1 shows the number of complaints during 2020.

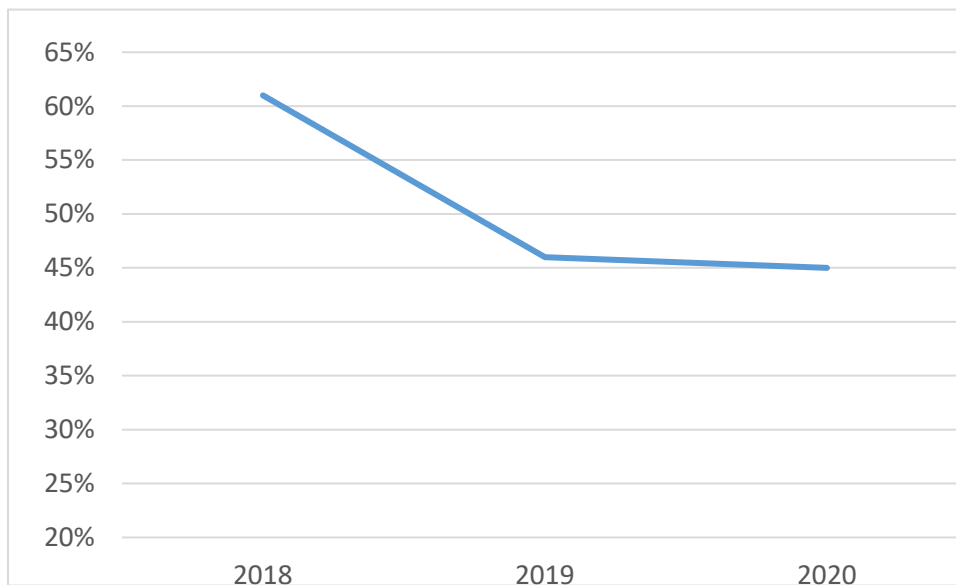
Table H-1, 2020 Case Breakdown	
CASES	NUMBER OF COMPLAINTS
Total Cases Received	227
Total Solid Waste Cases Received	173
Health Department Referrals	25
Total Cases Investigated	104

² HCPH reimburses R3Source for all enforcement not related to solid waste.

Table H-1, 2020 Case Breakdown	
CASES	NUMBER OF COMPLAINTS
Inspections at Tire Retail Stores ³	2
Cases Dealt With and Resolved after Initial Investigation	46
Warnings	12
Clean-Ups	12
Reports/Citations	62
Warrants/Recites	5
Misdemeanor Arrests	35
Misdemeanor Convictions	24
Felony Arrests	5
Felony Convictions	0
Traffic Citations	0
Court Appearances	33

As Table H-1 shows, over 75% of complaints the Sheriff received were solid-waste oriented. The other complaints were mainly wastewater-related. Concerning the ratio of complaints received versus investigated, Figure H-1 shows this ratio decreasing since the program's inception. This decline does not indicate a lack of interest or responsiveness; instead, the vetting procedure for investigating complaints has become more refined, making the program more efficient.

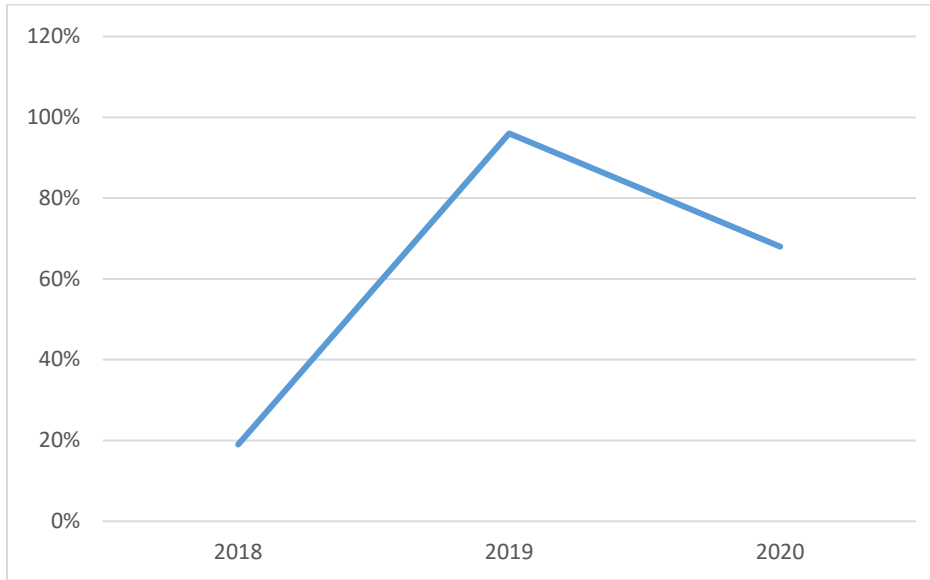
Figure H-1, Ratio of Complaints to Investigations



Another metric that R3Source reviewed to assess program efficiency is the ratio of misdemeanor arrests to convictions. Figure H-2 shows this ratio increased from 19% in 2018 to almost 70% in 2020, with a high of 96% in 2019.

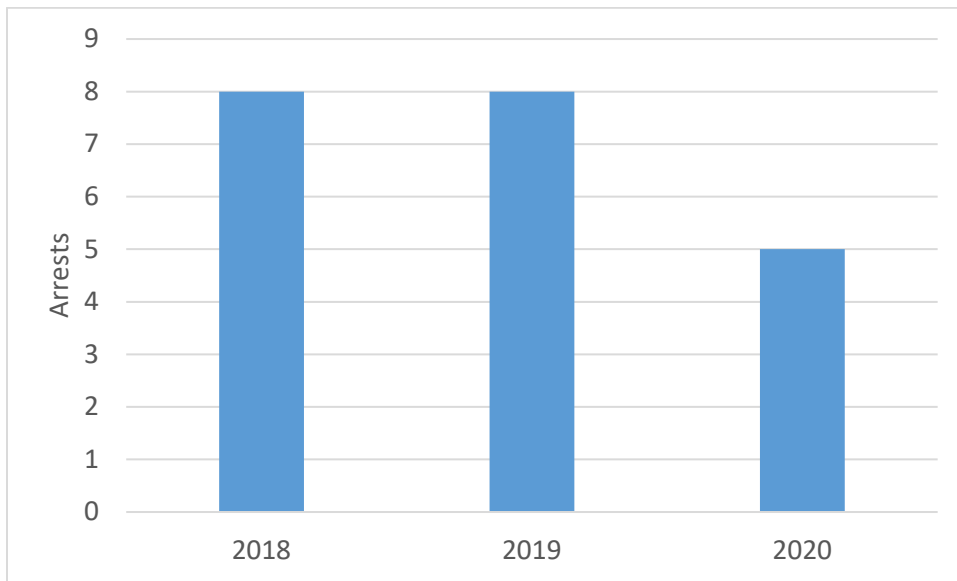
³ Tire store violations not tracked

Figure H-2, Ratio of Misdemeanor Arrests to Convictions



The program's performance metric that did not experience improvement was the ratio of felony arrests to convictions. To date, no felony arrests have resulted in a conviction. Figure H-3 shows the annual number of felony arrests since the program's inception.

Figure H-3, Felony Arrests



Conditions that could classify an open dumping violation as a felony include:

- Dumping more than one cubic yard of material
- Third offense
- Leaving more than ten tires

- Open burning

ORC 373 reads, "Whoever recklessly violates section 3734.03 is guilty of a felony and shall be fined at least ten thousand dollars, but not more than twenty-five thousand dollars, or imprisoned for at least two years, but not more than four years, or both."

Complaints by Jurisdiction

Table H-2 presents the most significant number of complaints by Hamilton County jurisdiction.

Table H-2, Complaints by Jurisdiction								
Year	Cinti.	Colerain TWP.	Green TWP.	Lincoln Heights	Anderson TWP.	Springfield TWP.	Columbia TWP.	Whitewater TWP.
2018	55%	9%	6%	4%	3%	2%	3%	2%
2019	77%	9%	1%	0%	2%	2%	0%	4%
2020	77%	13%	2%	1%	1%	1%	1%	1%

Table H-2 shows that the City of Cincinnati accounts for the most complaints on a percentage basis and that this percentage is increasing. Approximately 301,000 people live in Cincinnati, representing about 38% of Hamilton County's population but Cincinnati accounts for 77% of the complaints. Table H-2 also shows that the townships generate the majority of the other complaints. On a population basis, Colerain Township is the largest township, and approximately 59,400 people live there, representing 7% of Hamilton County's population.

Ohio Benchmarking

As part of the program evaluation, the following Ohio individuals/solid waste districts about their environmental enforcement programs were contacted.

- Andrew Booker, Solid Waste Authority of Central Ohio (SWACO)
- John Minear and Chris Hoffman, Montgomery County Solid Waste District
- Chuck Bauer, Clark County Solid Waste District
- Beth Biggens-Ramer, Cuyahoga County Solid Waste District

SWACO

Similar to Hamilton County, SWACO has an online system and telephone hotline to report open dumping and littering, typically receiving more than 100 complaints per month. SWACO pays the salary of a sheriff's deputy, prosecutor, and administrator. The administrator works for the City of Columbus Refuse Department. SWACO also pays for advertising and annually allocates \$4,000 to the vehicle.

If people provide a license plate with the complaint, the sheriff will send a warning letter. In 2020, the City of Columbus amended Title 13, which governs the storage, collection, transportation, and disposal of waste in Columbus. Columbus funds five dedicated solid waste investigators who have the authority to file criminal charges against violators. Before the changes, the Title 13 language about criminal violations was not very strong. The new language provides solid waste investigators with more direction and authority for criminal violations and allows them to issue civil penalties. Columbus has a dedicated district attorney. During the last several years, the conviction rate in Columbus averaged approximately 50%. The level of program commitment amongst the townships varies.

Another program challenge is having the deputy and refuse inspectors submit detailed reports, which some perceive as busywork. Currently, the deputy meets with SWACO once a week.

Montgomery County Solid Waste District

Montgomery County Solid Waste District (Montgomery County SWD) contracts with two deputies to support environmental enforcement and beautification. The Montgomery County SWD has a three-year memorandum of understanding and fully funds both positions (salary/benefits). The sheriff's department provides cars, equipment, and training. The Montgomery County SWD also coordinates an inmate program to provide roadside litter collection throughout the County.

Montgomery County SWD awarded grant funds to the City of Dayton (Public Works) for 60 ReConyx HyperFire cameras to utilize in dumping hot spots within the City. Dayton contacts the Montgomery County Environmental Crimes Deputy once they obtain photographic evidence from the cameras. Dayton has dedicated staff to monitor and maintain the cameras. The Enforcement Deputy investigates and brings charges in each case as appropriate. Deputies have an office on the District's campus and district staff check-in with the deputies several times a week. Montgomery County SWD's environmental enforcement program does not have an assigned prosecutor or magistrate. Revenue from fines goes to the court.

The Montgomery County SWD monitors the program. Enforcement and litter collection deputies submit statistical data monthly. MCSWD issues an annual beautification and environmental enforcement satisfaction survey to all municipalities in Montgomery County. Montgomery County SWD works with Keep Ohio Beautiful to train enforcement officers, health departments, and local police departments.

Clark County Solid Waste District

The Clark County Solid Waste District (Clark County SWD) does not focus its program on enforcing/citing illegal dumping; instead, they emphasize operating the PRIDE program. Inmates at the Clark County Jail who are part of the PRIDE program do service hours across Clark County to clean up trash and other physical work.

The sheriff provides police services to the Clark County SWD by exclusively assigning two deputies. The sheriff offers all training programs, special equipment, and other regular facilities of the sheriff's office. The sheriff and Clark County SWD provide for days off and work hours (shift) by the current collective bargaining agreement between the Clark County Sheriff and Deputies Association represented by the Fraternal Order of Police Ohio Labor Council. The deputies:

- Provide police assistance in the enforcement of applicable Sections of Chapter 3734 of the Ohio Revised Code
- Assist in duties relative to the operation of the Recycling Center and the Clark County SWD office
- Assist Clark County Combined Health District with court-ordered cleanup of private properties
- Support Keep Clark County Beautiful projects
- Provide investigation of all reported illegal dumping
- Remediate public right-of-ways and properties utilizing approved inmates from the county jail, as requested by the Clark County SWD
- Assist in public education and awareness programs of the Clark County SWD as requested

- Assist in special projects as determined by the Clark County SWD
- Assist in preparation of grant applications, budgets, and reports that the Clark County SWD requests

The environmental deputies submit quarterly reports on all services performed within 30 days after the end of each quarter. Quarterly reports show how deputies spend funds on personnel, vehicles, equipment, and supplies. Annual reports include a summary of all activity and services performed, and deputies submit the information within 30 days after each year.

Cuyahoga County Solid Waste District

Cuyahoga County's political subdivisions are structured differently than Hamilton County. Of the 59 political subdivisions, only two are townships. The police departments in the cities and villages enforce environmental laws. That being said, the Cuyahoga County Solid Waste District (Cuyahoga District) did coordinate a task force with the City of Cleveland to address open dumping and littering within Cleveland since most of these incidents occur there. The task force includes a sheriff's deputy and three detectives. Cleveland pays their salary, benefits, and vehicles. The Cuyahoga District compensates them for overtime and equipment directly related to environmental enforcement, which was approximately \$19,000 in 2021, and purchased cameras. The Cuyahoga District also pays for two crews to remove waste in rights of ways throughout Cuyahoga County.

The task force was gaining momentum until 2020 and has stalled for several reasons. First is COVID and the county and city staff not being in the office. Also, COVID created a backlog in court cases. Second, the task force had a dedicated judge from the housing court, but he retired. The new judge has not shown an interest in illegal dumping cases. The sheriff's deputy and several detectives also retired. The new detectives are enthusiastic about pursuing illegal dump offenders but are frustrated about the lack of successful prosecution.

The Cuyahoga District has been working on remediating and preventing open dumping on abandoned lots within Cleveland. This assistance included a survey of approximately 17,000 lots to assess the quantity and type of waste dumped on them and extensive outreach and education

Program Gap Analysis

As part of the program evaluation, the following Environmental Enforcement Program stakeholders were interviewed:

- Deputy Bryan Peak, Hamilton County Sheriff's Office
- Nee Fong Chin, Hamilton County Prosecutor's Office
- Chuck DeJonckheere, Greg Kesterman, and Craig Davidson, HCPH
- Alistair Probst, Keep Cincinnati Beautiful

Based on these interviews, R3Source identified the following strengths and weaknesses of the Environmental Enforcement Program:

Table H-3, Strengths and Weaknesses	
STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> • Enthusiasm and commitment of assigned Sheriff's Deputy • The appointment of a dedicated judge, which has improved the ratio of misdemeanor arrests/convictions has improved, and increased fines • Program efficiency has improved • A decrease in complaints from townships that now contract for trash collection 	<ul style="list-style-type: none"> • Amount of time Sheriff's deputy spend on the City of Cincinnati • Training new prosecutors and getting cases to the grand jury • Lack of cameras to obtain evidence • Amount of time spent on administrative work • No institutionalized standard operating procedures • Illegal dumping is increasing • Inconsistent support amongst police departments

Program Recommendations

- Since 80% of the complaints come from the City of Cincinnati, R3Source may execute a memorandum of understanding to define roles and responsibilities such as Cincinnati training police divisions on illegal dumping regulations and allocating staff to support programs, maintaining camera equipment, and remediating sites.
- Apply for grants to increase equipment to monitor illegal dumping "hot spots" electronically
- Collaborate with Keep Ohio Beautiful to provide training for communities, health departments, and police departments
- Work with HCPH to create a campaign to decrease illegal dumping at specific "hot spots"
- Continue to explore opportunities to use technology to reduce the paperwork on the Sheriff's Deputy
- Consider weekly meetings with the Sheriff's Deputy and possibly, locating the office at 250 William Howard Taft
- Create a network of Ohio solid waste districts with environmental enforcement programs
- Prioritize communities for environmental enforcement support by criteria such as whether they have a mandatory trash collection program, help with securing evidence, providing data, and campaigns to prevent illegal dumping
- Work with townships to mandate trash collection
- Collaborate with the Sheriff's Deputy to create a Standard Operating Procedure manual