

OFFICE OF THE CITY CLERK
CITY OF OAKLAND
AGENDA REPORT

2007 JUN 15 PM 8:25

TO: Office of the City Administrator
 ATTN: Deborah Edgerly
 FROM: Public Works Agency
 DATE: June 26, 2007

RE: **Supplemental Report from the Public Works Agency Regarding the Litter Enforcement Unit of the Public Works Agency Detailing Staffing, Areas of Focus, Investigation of Illegal Dumping, Fines Assessed, Abandoned Vehicles Cited and Towed, and Education and Outreach Efforts in the Community**

SUMMARY

On April 24, 2007, staff presented to the Public Works Committee an informational report regarding the Litter Enforcement Unit of the Public Works Agency detailing staffing, areas of focus, investigation of illegal dumping, fines assessed, abandoned vehicles cited and towed, and education and outreach efforts in the community. There were a number of questions and requests made by the Committee. This supplemental report responds to the Committee's questions and requests for clarification.

Responses to Questions

1. **Provide additional information on the number of people cited each year for illegally dumped items, statistics for the period 2002 through 2006, number of fines collected, balances, and outstanding amounts.**

PWA CASE ACTIVITY: ILLEGAL DUMPING						
Calendar Year	2002	2003	2004	2005	2006	Totals
No. of Cases	638	635	312	291	408	2284
Cases Dismissed	129	113	77	34	36	389
Total Amount Owed	\$615,208	\$810,927	\$280,316	\$209,127	\$252,893	\$2,168,470
Value of Dismissed Cases	\$152,994	\$134,018	\$91,322	\$40,324	\$42,696	\$461,354
Billed by PWA	\$462,214	\$676,909	\$188,994	\$168,803	\$210,197	\$1,707,116
Collected by PWA	\$54,559	\$68,007	\$23,385	\$28,114	\$34,441	\$208,506
Promissory Notes	\$25,625	\$29,343	\$15,267	\$32,329	\$21,282	\$123,845
Outstanding Balance						\$681,675
Average Amount of Fine Per Person	\$964	\$1,277	\$898	\$719	\$619	\$949

Item: _____
 Public Works Committee
 June 26, 2007

2. Why has the outstanding balance not been collected?

The balance consists of offenders who were cited, but do not own property upon which the City may levy. In addition, these are cases that are in various stages of the collection process, i.e. appeals or 30–60 day notices.

3. Provide information on the FMA collection process and the status of collections.

The City's FMA collections process involves the following steps:

- 1) Review cases referred to ensure they meet legal requirements to obtain judgments. The review involves identifying and locating debtors through skip tracing techniques. If the debtors can be found, collections next seeks to identify potential assets to attach such as wages, real estate, bank accounts, etc. They must be certain that the debtor is not judgment proof.
- 2) Prepare court filings and calendar the case, which typically takes weeks.
- 3) Present case to judge, and assuming no continuances, obtains judgment (or not).
- 4) Wait 30 days before acting upon judgment to avoid triggering appeals.
- 5) Review step 1 documentation detailing assets and attempt to attach via filings with the Sheriff of record or County Recorder.
- 6) Wait for assets to be recovered—often times only partial recovery due to lack of asset value or inconsistent employment. Steps 5 and 6 must be repeated with most cases until full debt is recovered.
- 7) If debt not paid after 10 years, renew the judgment and continue to track assets for attachment. If no viable assets, case is written off.

It should be noted that 75% of the outstanding illegal dumping debt referred to Citywide Collections is recent (see table below). It should also be noted that illegal dumping cases are among the least viable in terms of collectability. If these debts can be successfully collected, they typically take four years or longer to be paid. Annual recovery revenue is relatively small, ranging between \$7,500 to \$22,000.

In 2004, the Finance and Management Agency, Public Works Agency (PWA) and the Office of the City Attorney launched a collaborative effort to re-design processes to improve the viability of accounts referred to Citywide Collections. Additionally, Citywide Collections agreed to accept a large amount of older, PWA Promissory Note cases that were set up prior to the process improvements developed in 2006, hence the increase in outstanding referrals. In order to process the Promissory Note cases, Citywide Collections must review the viability of the Promissory Note cases before commencing legal action. This process includes researching all aspects of the case and the debtor. Lastly, if the case is deemed viable and debtor is not judgment proof, collecting debts upon receiving judgments is a slow process which can take many years to recover full or partial payment.

Explanation of the FMA collections history/status appears in the table below:

FMA - REVENUE DIVISION ACTIVITY: ILLEGAL DUMPING						
Calendar Year	2002	2003	2004	2005	2006	Totals
Number of Cases Referred	96	58	24	119	317	614
Referrals Paid	34	26	12	19	38	129
Referrals Deemed Uncollectible	41	42	5	7	12	107
Judgments Awarded	7	3	5	19	12	46
Debt Collected	\$14,516	\$13,125	\$7,597	\$11,558	\$22,317	\$69,113
Uncollected Debt	\$39,037	\$83,567	\$25,553	\$162,195	\$313,624	\$623,977
Note: Metrics above do not correlate to the year the case was referred, only to the actual value of payments, judgments, etc., received during the calendar year. Our current system does not provide management the capability of measuring productivity against the year the case was referred. We can only measure for activity during a specific period. For example, the 19 referrals paid in 2005 could be for cases referred to Collections during any one of the previous years.						

4. Two years ago, the City Council approved the purchase of new software for the Finance and Management Agency to facilitate the collection process. Provide information regarding purchase and implementation of that software.

On July 11, 2006, the City Council authorized the Finance and Management Agency (FMA) to negotiate a contract for the purchase of new software to update the systems and databases used for Citywide billing and collecting local taxes and fees. The new system will improve efficiencies and enhance the City's ability to increase overall revenues. The new system will also replace the legacy system used for administering delinquent collection accounts referred by other City departments (e.g., illegal dumping).

Staff expected to complete contract negotiations prior to the 2007 tax renewal season. However, due to the complex negotiation requirements and FMA's competing inter-agency priorities, contract negotiations were only recently finalized and system implementation is scheduled to start around the first of July 2007.

The new system should become operational to support the 2008 tax renewal season. The vendor, Progressive Solutions, Inc., has a track record of quick and successful system installations, and since July 2006 has successfully negotiated and implemented this system for the cities of Santa Barbara, Glendale, Albany, Merced, Culver City, Palmdale, National City, Colton, Tulare, Yucaipa, as well as Hilton Head, S.C.

5. What percentage of illegally dumped material contains evidence to tie it to the source?

Illegally dumped material that is tied to a source usually comes from household garbage. Household garbage weighs a lot less than appliances, tires, and construction debris that usually

lack evidence tying it to a source. Based on the total tonnage collected, it is estimated that 3–5% can be tied to a source.

6. Number of repeat offenders and action taken against them.

There were sixty repeat offenders who were cited twice, and nine were cited three times. The *Administrative Fines shown below increase with each citation. The total fine is made up of the Administrative Fine, the Illegal Dumping Fine, and the actual cost to remove and dispose of the debris.* PWA is working with OPD to identify options to pursue repeat offenders.

Administrative Fines

First offense	-	\$750
Second offense	-	\$1,000
Third offense	-	\$1,500

Illegal Dumping Fines

0 – 1.5 tons	=	\$350
1.5 – 4 tons	=	\$500
4 tons and up	=	\$750

Cleanup and Disposal Fee

Flat Fee	=	\$350
----------	---	-------

7. What percentage of offenders is from Oakland versus outside jurisdictions?

Of the 2,284 illegal dumping cases that have been opened between 2002 and 2006, 77% of the cases are tied to Oakland addresses, and the balance (23%) is from other jurisdictions.

Outside jurisdictions:

San Leandro:	72 cases	(3%)
Hayward:	54 cases	(2%)
San Francisco:	50 cases	(2%)
Berkeley:	40 cases	(2%)
Alameda:	39 cases	(2%)
Richmond:	30 cases	(1.5%)
Emeryville:	14 cases	(.5%)
Union City:	12 cases	(.5%)
Vallejo:	12 cases	(.5%)

The remaining 9% is a combination of various outside sources.

8. Describe City protocol if a caller provides license plate information for someone seen illegally dumping debris. How is the information used, and how often has this occurred?

We encourage members of the community who witness illegal dumping to report license plate information and a description of the vehicle. The following describes our protocol: Calls are

placed to the PWA Call Center at (510) 615-5566 and from there dispatched to the appropriate supervisor. The information is then forwarded to a LEO, who investigates the incident. At a minimum, a warning letter will be sent to the registered owner. If there is enough evidence, the illegal dumper will be fined.

9. What is the amount of illegally dumped tonnage collected each year?

YEAR	TONS	NUMBER OF LEOs
2002	4006	8
2003	3826	8
2004	4100	4
2005	3726	6
2006	3791	6

These tonnage amounts are based on the tonnage tracking software system that is operated and maintained by Waste Management of Alameda County, and reported to the City of Oakland monthly. The weight and contents of each vehicle are recorded using a coding system, before entering the Davis Street Transfer Station.

An average of 3,900 tons of illegally dumped debris is collected and disposed of each year. This is equivalent to the weight of 1,880 Crown Victoria automobiles, and is enough to fill up 163 40-foot-long landfill trailers. Stretched end-to-end, the debris would cover roughly twenty-one football fields.

10. What does it cost the City each year to remove illegal dumping from City streets, including disposal costs?

Approximately 41 FTE are assigned to illegal dumping removal and disposal.

Personnel costs	\$4,106,911
O&M	\$384,309
Equipment	\$216,062
<u>Disposal fees</u>	<u>\$429,000</u>
Total annual cost	\$5,136,282

11. What is the number of haulers caught as a result of forensic investigation, versus other means?

When forensic investigation is successful, it turns up evidence of the owner of the garbage (suspect), but not of the hauler. When we notify the suspect, that individual sometimes provides proof of hiring a hauler. The illegally dumping case is always filed against the suspect. Because of this, historically, the hauler's name was not recorded in the database. Now, however, our database has been updated to record haulers. There will still always be a case against the suspect for illegally dumping, but now we can also file a case against the hauler for illegally hauling.

It is possible to catch haulers through other means, such as sting operations. During joint PWA/OPD sting operations a total of twenty-eight haulers were cited.

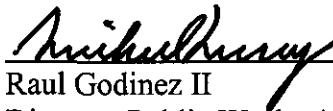
12. Why are SDS-1 statistics so much higher than for the other SDS areas?

The LEO assigned to work in this area was extremely effective and motivated. In addition, this employee established a strong working relationship with OPD to receive additional training and approval to enforce a wide variety of vehicle codes. The department recognized the work of this employee and worked with OPD to mirror and expand enforcement authority of other LEOs.

ACTION REQUESTED OF THE CITY COUNCIL

No action is requested, since this is an informational report.

Respectfully submitted,

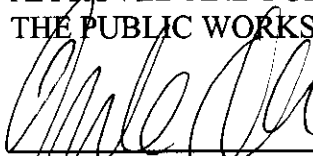
for 

Raul Godinez II
Director, Public Works Agency

Reviewed by:
Brooke A. Levin, Assistant Director

Prepared by:
David Ferguson, Public Works Operations Manager
Keep Oakland Clean and Beautiful Division

APPROVED AND FORWARDED TO
THE PUBLIC WORKS COMMITTEE:



Office of the City Administrator