



**PERFORMANCE AUDIT OF  
THE CODES ENFORCEMENT DIVISION**

**FOR THE PERIODS OF  
APRIL 1, 2020 - MARCH 31, 2021**

**Ernest Harvin, CIA  
Internal Audit Function  
Doña Ana County**

# Performance Audit of the Codes Enforcement Division

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June 30, 2021

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Cc: County Manager  
Assistant County Manager (Operations)  
Community Development Director  
Internal Audit Advisory Committee

Doña Ana County Internal Audit Function  
845 N. Motel Blvd  
Las Cruces, N.M. 88007  
Phone: (575) 525-5575

Fernando Macias, County Manager  
Chuck McMahon, Assistant County Manager (Operations)

### EXECUTIVE SUMMARY

The Doña Ana County Codes Enforcement Division of the Animal Control/Codes Enforcement Department consists of the Interim Animal Control Office Manager (ACO), 1 x Lead Codes Enforcement Officer, 4 x Codes Enforcement Officers, and 2 x Laborers (full-time). Codes Enforcement Officers conduct self-initiated patrols, respond to dispatch calls, perform community sweeps, answer calls to assist peer officers, and take action on county action requests. Laborers respond to dumpsite work orders to clean up illegal dumpsites and remove roadside debris, as well as abate graffiti. The Doña Ana County Illegal Dumping Partnership (IDP) is a multi-agency task force that partners with Codes Enforcement to educate property owners throughout the County about illegal dumping. More details about the department can be found by accessing the following link: [Cleanup with Carlos | Doña Ana County, NM \(donaanacounty.org\)](http://Cleanup with Carlos | Doña Ana County, NM (donaanacounty.org))

The Audit reviewed areas deemed to be at greater risks of internal control deficiencies, as well as areas of concern to Codes Enforcement leadership. Herein, the Audit considered grant compliance, illegal dumping and roadside clean-up violations, graffiti abatement efforts, self-initiated operations, answering dispatch calls, and responding to county action requests.

The area of greatest concern noted during the Audit pertained to a lack of written guidance for Codes Enforcement Officers in response to exigent circumstances. Herein, the internal auditor found that officers were hesitant to cite or engage with violators who were/appeared physically incapable of correcting a violation. Officers cited the lack of response resources such as the City of Las Cruces' Golden Shield, as the main reason for being tentative in citing the elderly or disabled who may be in violation of county ordinances. Per Audit recommendations, departmental guidance should alleviate officer uncertainty when violations are considered exigent.

The internal auditor also made inquiries about grants utilized by the Codes Enforcement Division, learning that proper oversight currently exists in this area. The internal auditor developed and analyzed a chart that indicated a marked decline in general education for environmental clean-up and consistently low levels of graffiti abatement efforts. Challenges repeatedly faced by Codes Enforcement Officers are illegal dumping, roadside trash, and graffiti. The use of temporary laborers is recommended, as necessary, to address debris accumulations on roadsides and illegal dumpsites, as well as for graffiti abatement. The Audit noted unclear guidance about citing those responsible for illegal dumping, as some officers cited violators upon positive identity discovery while others offered violators the opportunity to clean up the dumpsite. All officers agreed that repeat violators should be cited. The Audit recommended clearer policy directions in this area. Other findings involved multiple recordkeeping and record storage discrepancies, for which corrective actions were recommended.

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## AUDIT SCOPE & OBJECTIVES

The purpose of the audit is to review the Codes Enforcement processes for adequacy of controls and to determine if the controls are effective in performing their stated functions. This audit focused primarily on Codes Enforcement operations from April 1, 2020 through March 31, 2021, with the following objectives:

1. Determine if codes enforcement activities are performed consistently in accordance with established procedures, and in a timely manner;
2. Determine whether enforcement practices promote compliance with County Code, effectively bringing properties into compliance with the Code;
3. Review grant related activities for compliance, as necessary;
4. Review and assess Illegal Dumping Partnership program effectiveness.

## OPERATING & INTERNAL CONTROL FINDINGS

This report contains no (0) High-Level risks, one (1) Moderate-Level risk, and four (4) Low-Level risks. This report also includes the auditor's Recommendations, Management Responses, and Auditor Comments (as applicable).

## DETAIL OF AUDIT FINDINGS

Risk ratings are based on the use of professional judgment to assess the extent to which deficiencies could have an adverse effect on the performance of systems and controls within a process. More details about the risk rating in this report can be found by accessing this link: [Audit Risk Ratings | Doña Ana County, NM \(donaanacounty.org\)](https://www.donaanacounty.org/Audit-Risk-Ratings)

## FINDINGS, RECOMMENDATIONS, MANAGEMENT RESPONSES, & AUDITOR COMMENTS

The evidence obtained provides a reasonable basis for the findings and conclusions below, based on audit objectives. As a result of interviews, observations, reviews of Codes Enforcement SOPs, Regulatory Ordinances, and tests performed, the following results were recorded. While management responses are included within this report, the Audit takes no responsibility for the sufficiency of said responses, nor for the effective execution of corrective actions taken or to be taken by management. **NOTE:** Manager Responses below are written in *italics*.

### 1. **Priority Clean-Ups for Exigent Circumstances.** *Moderate.*

**Condition:** Codes Enforcement Officers do not consistently take steps to immediately notify elderly or disabled homeowners of unlawful collections of debris on their properties. In addition, the Codes Enforcement Division has not practiced abating private property that may have illicit (obscene or gang-related) graffiti that is clearly visible to the public.

**Effect:** Some forms of debris can become a safety hazard to property owners. Also, visible

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gang-related or other obscene messages can allow for the proliferation of gang activity in a particular area.

**Criteria:** Doña Ana County Solid Waste Ordinance, § 287-3. Accumulation and disposition, states

“...any otherwise permissible accumulation shall not be allowed to become a feeding or breeding place for flies, insects or rodents, or to otherwise become unsanitary, unsafe, or similarly injurious to the public health and safety.”

§ 287-6. Enforcement; penalty, states the following:

A. Abatement. In addition to any other penalty or remedy, including injunctive relief, if a property owner fails to abate a violation of this article within 30 days of receiving written notice of such violation, the County may elect to incur the cost of abatement and establish a lien against the property in the amount of the cost of abatement of the violation.

**Cause:** *Officer discretion is used after conducting a full investigation when the Officer is advised of any disabilities that would prohibit the property owner from bringing the property into compliance with County Ordinances. The overall goal is to work with property owners to obtain compliance of code violations rather than seek prosecution. The willingness to immediately abate graffiti is a priority but due to staff shortages and the increase of illegal dumping has not given us the opportunity to abate the graffiti problem in the community.*

**Recommendation:** Matters that speak to the safety of property owners and/or DAC citizens in a particular area may take precedence over a property owner’s ability or willingness to comply with a Codes violation. Thus, the Audit recommends a written priority of action/response area within an applicable SOP as it pertains to exigent circumstances. The SOP should direct Codes Enforcement Officers to address unsafe or unsanitary debris, as well as prolific graffiti on private property. When such violations are considered exigent, corrective actions should be taken in an expedient manner even if such action is to be taken directly by the county.

**Manager’s Response:** *The existing SOP shall be enforced beginning the first week in September 2021, a day of each week will be designated specifically for graffiti abatement. Guidance will be sought from the Legal Department on adding a section in the SOP for exigent circumstances. Will also look into programs or groups to assist a disabled/elderly property owner help with the cleanup of their property.*

**Auditor Comments:** The former Field Supervisor agreed to develop guidance concerning exigent circumstances (safety matters) that should take precedence over a citizen’s ability to clean up debris. Current leadership is encouraged to determine the County’s legal authority in such matters, and base corrective actions thereon.

2. **Unclear Guidance. Low.**

**Condition:** Ride-a-longs with Codes Enforcement Officers revealed that some officers will cite

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the owner/responsible party of illegal dumping sites, while others will reach out to the owner/responsible party to allow them an opportunity to clean up the site and thereby avoid a citation. In an interview, the Codes Enforcement Field Supervisor stated that officer actions in such cases are and should remain discretionary.

**Effect:** The current guidance concerning the actions to be taken after identifying the owner/responsible party of illegal dumping is ambiguous, as it could be dually interpreted.

**Criteria:** Per Doña Ana County Codes Operation 234 (April 2020), “All dump sites will be photographed and tagged...If an owner/responsible party can be identified, a citation will be prepared and filed in the Doña Ana County Magistrate Court.”

**Cause:** *Depending on the circumstances associated with the violation, an Officer has been using their discretion to better serve the community as the overall Departmental goal is to reduce the amount of illegal dumping and not the prosecution of residents of Doña Ana County.*

**Recommendation:** The rationale behind Operation 234 Protocol cites a 100% increase in illegal dumping in Districts 2-4 of DAC. While the internal auditor viewed the guidance as straightforward, a meeting with an attorney in the Legal Department brought about questions as to whether or not the current verbiage in Operation 234 Protocol purports mandatory or discretionary actions. The Audit recommends that the proper authority either modify the current verbiage of “...will be” in regards to preparing a citation for illegal dumping, to “shall be” or “may be” depending upon the intentions of the department’s management. Such modification in the language is intended to alleviate misinterpreting the proper protocol, as the guidance should indicate circumstances that would justify programmed citations.

**Manager’s Response:** *Operation 234 Guidance Report shall be amended to give Officer discretion to allow the violator to remediate the violation if it’s their first offense or there are other circumstances beyond their control.*

**Auditor Comments:** During a ride-a-long, the internal auditor noted an occasion wherein a constituent was contacted by Codes Enforcement about illegal dumping. As the constituent’s trailer had recently been stolen and recovered, s/he was not aware of the violation and immediately agreed to clean up the dumpsite. Thus, the internal auditor finds merit in management’s decision to amend the current guidance as discretionary.

3. **Record Storage Discrepancies. Low.**

**Condition:** A June 23, 2021 review of the records storage room revealed multiple records awaiting scan-in and storage, as the last record had been scanned in on April 1, 2021. The Record Box for 2021 (still pending completion) was missing the data label on top which indicates the Name of Records, Retention Date, and Destruction Date; Eight of the 28 photos in the three 2021 files were missing the date/time stamps, 2 files did not

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have a closing dates, and 1 file indicated that a case was dismissed because the Codes Officer failed to appear in court;

Of the twenty-three, 2020 files, three files indicated no closing date, one did not contain an opening date, and three files did not indicate the results of the cases.

**Effect:** When procedures are not followed or files are incomplete, all needed informational data is not readily available, which is an intent of the recordkeeping and disposition guidance. This in turn allows for inefficiency when information needs to be referenced.

**Criteria:** The Doña Ana County Animal Control and Codes Enforcement Records Retention and Disposition Schedule states, “Upon gathering all records and placing them in storage boxes, place the **Record Storage Label Attachment A** on the top of the box, adhering it to the top. There are pre-set categories on the label... Write in the title of the document, the retention date, disposition or destruction date, and then forward to the Records Custodian.”

**Cause:** *The scanning and storage of records and files were not completed according to the Records Retention and Disposition Schedule due to the resignation of the administrative assistance of the Case Worker.*

**Recommendation:** The Audit recommends that the Records Custodian review records for completeness before completing scan-in procedures. On a monthly basis, records should be scanned-in and properly stored in record boxes. In addition, record boxes should contain labels that are filled out appropriately.

**Manager’s Response:** *Management agrees with Auditor’s recommendation and will work with the Records Custodian/Case Worker to ensure records are scanned on a monthly basis and stored appropriately. Officers are now scanning and filing their own cases and will follow the SOP guidance. Once the files are complete [sic], the Lead Code Officer will take the files to the ACO Office on Griggs Street for proper storage and retention.*

4. **Recordkeeping Discrepancies. Low.**

**A. Condition:** When attempting to match monthly statistical data (for warnings issued) to annual data, only 493 of the 905 warnings could be matched (54%), for the period of April 2020 – March 2021.

When matching monthly statistical data (for citations issued) to annual data, only 11 of the 170 citations could be matched (6%), for the period of April 2020 – March 2021.

While matching monthly statistical data (for court appearances) to annual data, 65 of the 75 court appearances could be matched (87%), for the period of April 2020 – March 2021.

**Effect:** The annual statistical data is meant to serve as a collective summary of monthly

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statistical inputs. However, when records do not match then the data presented can be considered questionable, as the end user may not know which set of data is most accurate.

**Criteria:** Accurate recordkeeping is essential if statistical data is to be depended upon by management for making decisions to take appropriate actions.

**Cause:** *Due to administrative turnover, the information was not being inputted and updated since the Case Worker resigned.*

**Recommendation:** It is recommended that statistical data is updated on a monthly basis by directly transferring monthly statistical data into the annual reports/spreadsheets.

**Manager's Response:** *Management agrees with the recommendation and will update on a monthly basis by directly transferring monthly warnings, citations and court appearances into the annual report spreadsheet.*

**B. Condition:** The internal auditor reviewed a sample of 20 Dumpsite Clean-Up Work orders out of 100 entries, recorded April 2020 – March 2021. The following discrepancies were noted:

The FY21.20 Dumpsite Clean-Up Stats sheet has not been updated since 3/1/2021.

The FY21.20 Dumpsite Clean-Up Stats Sheet is missing data for the months of May - August of 2020, October 2020, and January - February 2021.

A comparison of The FY21.20 Dumpsite Clean-Up Stats Sheet to manual work orders revealed that 1 x Work Order Number did not match,

3 x Officers Assigned did not match,

1 x odometer starting mileage did not match,

5 x Tonnage/Weight lbs. did not match,

1 x Priority did not match,

2 x Type of Waste did not match,

1 Start and Completed date did not match,

1 x Number of Crew and Total Hours did not match,

1 x odometer starting and ending mileage did not match, and

1 x fuel receipt did not match

**Effect:** The FY21.20 Dumpsite Clean-Up Stats sheet is meant to serve as a collective summary of individual Dumpsite Work Orders. When records do not match then the accuracy of the data presented can be called into question, as the end user may not know which set of data is most correct.

**Criteria:** Accurate recordkeeping is essential if statistical data is to be depended upon by management for proper decision making.

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**Cause:** *Due to Covid 19, staff turnovers, and new employees (laborers), these discrepancies were related to the keeping of inaccurate records, which did not support the statistical data.*

**Recommendation:** It is recommended that statistical data is updated on a monthly basis by directly transferring monthly Dumpsite Clean-Up statistical data into the annual reports/spreadsheet.

**Manager's Response:** *Action is currently underway to correct the reporting as the Lead Code Officer is working with the laborers on getting all of the information accurate on the work orders. Code Officers will give copies of all notices stapled to their daily sheets to assist with the data collection. The Lead Officer will add the information to the monthly statistics that will help with the annual reporting statistics.*

- C. **Condition:** The electronic record retention process that is in practice, differs significantly from the structure prescribed in the Records Retention and Disposition Schedule for ACO Codes Enforcement Department policy.

**Effect:** Policy is meant to guide staff actions to bring uniformity and order to daily processes. When policy is not followed, a lack of uniformity and order can occur, which allows for inefficiencies.

**Criteria:** The Records Retention and Disposition Schedule for ACO Codes Enforcement Department policy states, "Beginning with all 2019 records and henceforth are to be scanned into the *ACO-Codes/Electronic Records* folder. Each year will have its own folder and within that folder will be the name of each document."

**Cause:** *Due to the resignation of the Case Worker, the files were not updated as required.*

**Recommendation:** A conversation with the Lead Codes Enforcement Officer revealed that following the current policy as written, hinders the functionality of being able to quickly reference the history of violators. Thus, the Audit recommends that management modify the current policy/procedure as necessary if it is ineffective, or enforce and follow the current policy/procedure as written.

**Manager's Response:** *Management agrees with this recommendation and will revise the Retention and Disposition Schedule to reflect the current practices and will seek guidance from ACO Field Supervisor for assistance from the Case Worker, when hired.*

**Auditor Comments:** The internal auditor notes that a new Case Worker has been hired since the completion of this Audit.

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5. **Annual HAZCOM Training, Low.**

**Condition:** The internal auditor found SDS sheets and inventory during the audit, but did not find copies of the HAZCOM training that is to occur annually for employees.

**Effect:** If staff is unfamiliar with the training in this directive, they may lack accurate knowledge of how to properly respond to exposure to hazardous chemicals.

**Criteria:** Per the Doña Ana County Hazard Communication Program, All Affected Employees will receive annual trainings covering the department's Hazardous Communication Program.

**Cause:** *Due to Covid 19, there were no training options available.*

**Recommendation:** As the current directive indicates the tracking and recording of annual training for employees, the Audit recommends that the directive is followed as written by the Codes Enforcement Division. If the training is occurring annually, accurate records should be kept to support the training.

**Manager's Response:** *All Codes Officers will read and sign the HAZCOM policy and will be placed in their personnel file and will watch the RAP Training Hazmat videos available on El Sol from Risk Management. Also, Leads Code Officer is compiling a Safety Data Sheet (SDS) folder that will be posted for public viewing. Additionally, when hazmat and all other trainings resume, a record will be kept in the personnel files of when each Officer attended the trainings.*



*6 September 2023*

Ernest Harvin, CIA

Date

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