

Case #13: Trashing Privacy

In an effort to improve trash sorting, Seattle has become the first city to penalize its residents for throwing away food and recyclables in the trash bin destined for a landfill.¹ Violators whose trashcans contain 10% or more of recyclable or compostable substances will be fined. When the ordinance was first passed, one trash collector said he was putting red warning tags on about every fifth can. The ordinance states that, “[a]fter 2 warnings, properties may receive a \$50 fee on their waste bill for recyclables in the garbage.”² The red tag is no afterthought. The city explicitly intends “shame” as a means of encouraging participation in the program.³

Supporters argue that irresponsible trash disposal leads to environmental harms. NPR reports that, “Seattle Public Utilities estimates that every family in the city throws away some 400 pounds of food each year.” And food waste “is both an economic and environmental burden,” says a reporter for the Washington Post.⁴ “Transporting the waste, especially for distances as far as Seattle does, is costly. So too is allowing it to sit out in the open, where it produces methane, one of the most harmful greenhouse gases, as it rots . . . and landfills are the single largest source of methane gas.” The city’s recycling rate would like to restore its recycling rate to 60% from 56%, still one of the highest in the nation.⁵

However, many Seattle residents have complained that, under all other circumstances, a person’s trash is considered private. Law enforcement officers in Washington State still need a search warrant to go through a suspect’s trash (*State v. Boland*, 115 Wash.2d 571 (Wash. 1990)). Further, whether someone’s trash contains 10% or more of recyclable or compostable substances is left to the judgment of trash collectors untrained to make such assessments and who have no incentive to judge accurately. The collectors are not given “a seminar on solving Fermi questions,” as one commentator sarcastically suggests (the formula used to calculate the volume of a cylinder), but simply told to “use your best judgment.”⁶ And there is no system of appeal in place for disputing the fine. The trash collector is judge and jury of citizens’ composting habits. Indeed, in 2016, Pacific Legal Foundation won a suit against the city to eliminate the part of the

¹ Amy Radil, “Tossing Out Food in the Trash? In Seattle, You’ll Be Fined for That,” *NPR.org*, Jan. 26, 2015, <http://www.npr.org/sections/thesalt/2015/01/26/381586856/tossing-out-food-in-the-trash-in-seattle-you-ll-be-fined-for-that>.

² Seattle Public Utilities, “Ordinances Prohibiting Recyclables in Garbage,” <http://www.seattle.gov/Util/MyServices/Garbage/AboutGarbage/SolidWastePlans/AboutSolidWaste/BanOrdinance/index.htm>.

³ Adam Chandler, “Seattle’s Scarlet Letter Composting System,” *The Atlantic*, Jan. 28, 2015, <http://www.theatlantic.com/national/archive/2015/01/Seattle-Residents-Will-Be-Publically-Shamed-Fined-for-Not-Sorting-Compost/384896/>.

⁴ Roberto A. Ferdman, “Seattle is now publicly shaming people for putting food in their trash bins,” *Washington Post*, Jan. 27, 2015, <https://www.washingtonpost.com/news/wonk/wp/2015/01/27/seattle-is-now-publicly-shaming-people-for-putting-food-in-their-trash-bins/>.

⁵ Amy Radil, “Seattle’s Scarlet Letter For Sloppy Trash Sorters,” *KUOW.org*, Jan. 5, 2015, <http://kuow.org/post/seattles-scarlet-letter-sloppy-trash-sorters>.

⁶ Kevin D. Williamson, “Seattle, Whatcha Gonna Do When the Trash Police Come For You?” *National Review*, Sept. 16, 2015, <http://www.nationalreview.com/article/424069/seattle-whatcha-gonna-do-when-trash-police-come-you-kevin-d-williamson>.

ordinance that required collectors to go through residents' trash on the grounds that such a requirement is unconstitutional.⁷

Case from the 2016 Regional Ethics Bowls

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