



LEGISLATIVE ANALYST REPORT

To: Members of the Board of Supervisors
From: Adam Van de Water, Office of the Legislative Analyst
Date: February 22, 2005
Re: **Graffiti Prevention and Abatement** (BOS No. 041473) (OLA No: 034-04)

SUMMARY AND SCOPE OF WORK

The Board approved a motion introduced by Supervisor Elsbernd requesting that the Office of the Legislative Analyst (OLA) prepare a brief report comparing San Francisco's graffiti laws and enforcement practices to those in Chicago, New York City, Los Angeles, and Boston.

EXECUTIVE SUMMARY

In addition to violating state law and defacing public and private property, graffiti costs the City an estimated \$22 million per year in clean up and repair costs. According to accounts from the Police, District Attorney, and Public Works Departments, most graffiti taggers are white males between the ages of twenty and thirty, many of whom travel from outside the City to vandalize San Francisco property.

Last year, the San Francisco Police Department (SFPD) made 243 arrests for graffiti and the Department of Public Works (DPW) abated an estimated 1,200,000 square feet of graffiti, over three-quarters of which was on public property. Supervisorial Districts Six, Nine, and Three were the most common targets.

State law provides for criminal prosecution of graffiti vandals and, as of December 2004, the City requires private property owners to abate graffiti on their property or risk a fine for allowing it to remain.

The Office of the Legislative Analyst surveyed the cities of Chicago, New York, Los Angeles, and San Jose and found a number of approaches to graffiti prevention and abatement.

Should the Board wish to further reduce graffiti in San Francisco we offer eight recommendations to improve graffiti prevention (including enhanced education, visibility, and enforcement) and three recommendations to improve abatement efforts.

Further consideration or adoption of these measures is a policy matter for the Board of Supervisors.

GRAFFITI VANDALISM IN SAN FRANCISCO

Many San Franciscans have come to accept graffiti as a necessary part of urban living. Some even see it as “an illustrious, fast-paced form of artistic expression”.¹ However, not only is graffiti an illegal act of vandalism but it brings down the value of neighborhoods and poses significant annual costs to property owners and the City. A 2000-2001 Civil Grand Jury report estimated the total cost to the City of graffiti damage and removal at over \$22 million per year, without even considering the direct clean-up and indirect resale costs borne solely by property owners².

Citizens also overwhelmingly see graffiti as visual pollution and a public nuisance. The Department of Public Works receives an average of 400 calls per month from citizens complaining of graffiti and requesting its removal.

Profile of a Graffiti Tagger

Contrary to popular opinion, most graffiti is not committed by teenagers with gang affiliation(s). According to Officer Christopher Putz in the San Francisco Police Department’s (SFPD) Graffiti Abatement Unit, offenders are typically white males in their twenties and thirties, many of whom are part of tagging teams that travel to San Francisco from neighboring areas to vandalize San Francisco property which has more visibility³. However, as Table I shows below, the majority of arrests made by SFPD involve San Francisco residents and the number of juveniles is on the rise.

Enforcement: SFPD and the DA

According to Officer Putz, in 2004 the SFPD arrested 123 adults and 120 juveniles for graffiti vandalism. These are arrests for misdemeanor offenses and typically require extensive investigation in order to build a case before an arrest is made. The majority of arrests involve residents of San Francisco and narrowly include more adults than juveniles (see Table I below). Perhaps due to increased attention from the SFPD, the number of arrests has increased by 58 percent over 2003.

Table I: SFPD Arrests for Graffiti Vandalism, 2003 and 2004

	2003			2004		
	<i>SF resident</i>	<i>Out of Town</i>	<i>Total</i>	<i>SF resident</i>	<i>Out of Town</i>	<i>Total</i>
Adults Arrested	62	39	101	83	40	123
Juveniles Arrested	42	11	53	92	28	120
TOTAL	104	50	154	175	68	243

Source: Officer Putz, SFPD, February 2005.

¹ www.hifiart.com catalogues hundreds of pictures of San Francisco graffiti. According to the site, “for years, san francisco has been the graffiti mecca of the world. the best artists from around the globe have come here to become even a bigger and more well-known name. many of the s.f. graffiti artists have luckily began their career in the most beautiful city and have had their work showcased around the world through HiFiArt.”

² “Litter and Graffiti.” Report of the 2000-2001 San Francisco Civil Grand Jury. Available online at http://www.sfgove.org/site/courts_page.asp?id=3724.

³ Staff from DPW, the District Attorney’s Office, and the community courts all corroborated this profile.

The District Attorney's office has responsibility for criminal prosecution of graffiti cases and must weigh the offender's prior offenses, the extent of the damage⁴, and the strength of the evidence to determine whether to seek prosecution. An alternative route is for the District Attorney or the court to refer a case to pre-trial diversion where defendants typically receive community service of up to 96 hours and/or pay damage restitution fees to the City.

According to Will Leung, Director of the Pre-Trial Diversion program, between 30 and 35 graffiti cases per year are referred to pre-trial diversion in this manner and between 60 and 70 percent of those referred complete their service. The City collects between \$15,000 and \$20,000 in restitution fees annually from convicted graffiti vandals.

Abatement: The Department of Public Works

The Bureau of Street and Environmental Services (BSES) at DPW is responsible for the majority of public graffiti abatement citywide⁵. BSES currently employs 14 staff in its graffiti division who respond to the 400 average public graffiti requests per month made to the City's litter and graffiti hotline, 28-CLEAN.

The graffiti unit currently has four large graffiti vans each with a color matching system (though as of October only one was working), 3 utility vans, 2 trucks each pulling a 300-gallon tank and 12,500 PSI soda blaster, one high ranger for removing graffiti between 10 and 20 feet above the ground, and three airless sprayers.⁶

According to Acting BSES Superintendent Chris Montgomery, DPW is hoping to replace the large vans and color matching systems as they are frequently inoperable and in need of repair. A quote from one vendor, Datacolor, puts the price of a color matching system, including the required computer to operate it, at approximately \$10,000. DPW is hoping to purchase two to four of them at a total cost of \$20,000 to \$40,000. According to Mohammed Nuru, DPW would also like to install remote cameras as a means of both deterring graffiti in designated hot spots and gathering evidence to prosecute perpetrators.

In Fiscal Year 2003-2004, DPW painted out an estimated 1,200,000 square feet of graffiti, over three-quarters of which was on public property such as utility poles, signs, mailboxes, signal boxes, trash cans, fire hydrants, benches, and meters. As Table II below shows, the most frequently serviced districts are Districts Six, Nine, and Three.

⁴ Passage of Proposition 21 in March 2000 gave district attorney's offices and judges the ability to prosecute graffiti cases as felonies if the extent of the damage exceeds \$400. Prior to Proposition 21 this threshold was set at the much higher damage amount of \$5,000.

⁵ Some professional painting of graffiti on private property is completed via work order by DPW's division of Building Repair.

⁶ October 12, 2004 memo to Deputy Director of Operations Mohammed Nuru, RE "Equipment for Graffiti Unit."

Table II: Number of DPW Graffiti Services Performed by DPW by Supervisorial District and Type of Property, Fiscal Year 2003-2004

District	1	2	3	4	5	6	7	8	9	10	11	Total⁷
Private Property	147	150	605	45	618	2,283	171	183	1,570	344	262	6,475
Public Property	774	2,012	2,162	492	3,001	6,502	758	1,040	2,129	932	441	20,980
Total	921	2,162	2,767	537	3,619	8,785	929	1,223	3,699	1,276	703	27,455

As of December 4, DPW no longer removes graffiti from private property unless paid to do so by the property owner once a notice of violation has been issued. Based on last fiscal year's data, this will reduce DPW's annual service calls by nearly 25 percent, allowing them to focus their resources on public property abatement.

STATE AND LOCAL LAW

California State law provides criminal, pecuniary and community service penalties for acts of graffiti vandalism as well as restricts the possession and sale of common graffiti supplies such as aerosol paint and etching creams. While San Francisco has enacted additional requirements of property owners to remove graffiti, state law remains the basis for criminal prosecution of graffiti vandals in San Francisco.

State Law

Depending on the cost of repairing the damage and whether the defendant had been convicted of a prior offense, the California Penal Code currently provides for fines of up to \$50,000 and/or prison sentences of up to one year for graffiti offenses. In addition to these sentences, the Penal Code allows the presiding court to,

order the defendant to clean up, repair, or replace the damaged property himself or herself, or order the defendant, and his or her parents or guardians if the defendant is a minor, to keep the damaged property or another specified property in the community free of graffiti for up to one year. The court may [also] order any person ordered to perform community service or graffiti removal [defined as up to 300 hours over a period not to exceed 240 days]... to undergo counseling.⁸

State law also prohibits the sale of aerosol paints and etching creams to minors, the carrying of such compounds in plain view in public parks and places, and the possession of such solvents on any roadway with the intent to deface property. Finally, the California Government Code allows local legislative bodies to place liens on the properties of convicted minors (or their parents or guardians) to abate the cost of removing the graffiti.

Local Law

⁷ Totals include additional 'City' category not attributed to a Supervisorial district.

⁸ California Penal Code, Section 594.

San Francisco law goes a step further by requiring property owners to clean-up graffiti on their own properties regardless of whether there was a conviction for the vandalism. As of December 4, 2004, the San Francisco Public Works Code authorizes the Director of the Department of Public Works (DPW) to require property owners to remove graffiti from their property or pay the City the greater of \$500 or the actual abatement cost to do so on their behalf. Failure to do so could result in a lien placed upon the property equal to the unpaid amount⁹.

OTHER JURISDICTIONS

Chicago

In April 1993, the City of Chicago became the first municipality in the country to assume the financial responsibility for removing graffiti from privately owned property. Mayor Daley has allocated approximately \$4 million annually for a Graffiti Blasters program to remove graffiti from brick, stone and cement with high-pressure water and baking soda scrubbers. According to a recent press release, in the eleven years since the program began, more than 900,000 buildings have been cleaned of graffiti.

The City has also hired 16 painters to paint over graffiti on painted surfaces and, through the Give Graffiti the Brush program, offers city-purchased paint to any block club or other community agency willing to paint over graffiti on surfaces unsuited for the pressure scrubbers.

If the property owner does not respond to a request to remove the graffiti within five days from the date of first notice, the City has a legal right to remove the graffiti per the City's Municipal Code¹⁰.

Per Chapter 8-4-060, graffiti offenders may be subject to fines of up to \$500, misdemeanor incarcerations of up to 30 days, and/or community service of up to 1,500 hours. In addition, offenders (or their parents or legal guardians) may be required to submit full restitution to the victim(s) of their vandalism through monetary payment or property repairs.

New York City

⁹ The Board of Supervisors may also declare that this lien be specially assessed against the property and collected in the same manner as ordinary property taxes.

¹⁰ Article I, Section 7-28-065 : "(a) As defined in this section, graffiti is hereby declared to be a public nuisance. The owner of record, or the person in charge, possession or control of any building or structure upon which graffiti is placed or affixed shall, upon the appearance of the graffiti: (i) cause such graffiti to be removed or concealed or (ii) place on file a written statement authorizing the presence of the graffiti at the office of the commissioner of the department of streets and sanitation. Whenever any nuisance in the form of graffiti shall be found on any building or other structure, the department of streets and sanitation, or its agent or contractor shall attempt to obtain consent from the owner for the city's graffiti removal services. If such attempt to contact the owner is not successful, the department shall post a notice in a prominent place upon the building or structure where the graffiti is found which shall state that, if the graffiti is not removed or concealed or if a written statement authorizing the presence of the graffiti is not filed with the commissioner within five days after the notice is posted, excluding Saturdays, Sundays and legal holidays, the department or its agent or contractor shall have authority to enter or access the property and abate the nuisance by removing or concealing the graffiti."

New York City Administrative Code Section 10-117 prohibits “defacement of property, [as well as] possession, sale and display of aerosol spray paint cans and broad tipped markers” in certain instances. Violations are considered Class B misdemeanors punishable by a criminal fine of up to \$500 and/or imprisonment of up to three months. From July 2002 to July 2003 New York City removed over 16.3 million square feet of graffiti and made 468 arrests for graffiti-related crimes.

In addition to a criminal fine, violators “shall be liable for a civil penalty of not more than five hundred dollars for each violation which may be recovered in a proceeding before the environmental control board.”¹¹ However, according to Lieutenant Steve Mona in the New York Police Department, NYPD officers are specifically instructed to only enforce the provisions of Section 10-117 relating to the sale and display of aerosol paint and broad tipped markers.

Interestingly, “in addition to police officers, officers and employees of the department of consumer affairs, sanitation, environmental protection and transportation shall have the power to enforce the provisions of this section and may issue notices of violation, appearance tickets or summonses for violations thereof.”¹² This provides an added force of City personnel in the hopes of catching more vandals in the act.

City of Los Angeles

Article 14 of the Public Welfare Code provides for fines of up to \$1,000 for graffiti violations. These fines are in addition to any criminal fines imposed under state law and are paid to a graffiti reward program¹³ that, in turn, pays \$1,000 rewards to persons providing information leading to the identification, apprehension and conviction of graffiti violators. As a matter of practice, according to Marty Vranicar in the City Attorney’s Office, the City has required a criminal conviction or a juvenile adjudication before issuing a civil penalty.

Los Angeles County

The Los Angeles County Public Works Department employs an unconventional but successful program in the unincorporated parts of Los Angeles County. Ten years ago, new Director Valerie Hill introduced a plan to the Board of Supervisors to privatize the County’s graffiti removal program. The County now approves \$2 million in annual contracts with contractors¹⁴ who competitively bid to remove graffiti in designated quadrants of the County. Contractors are paid annually (with two, one-year extension options) and are paid a flat annual fee rather than a cost per square foot of removal. The \$3 million program is paid for through a combination of federal community development funds, designated road district funds, and discretionary funds appropriated by the Board of Supervisors.

According to Ms. Hill, privatization has reduced the County’s removal costs to between 8 and 13 cents per square foot, with 98 percent of all graffiti removed within 48 hours of a work order complaint.

¹¹ 10-117 (g)

¹² Ibid, (h).

¹³ Chapter 12, Article 2 of the Los Angeles Administrative Code.

¹⁴ Contractors must hold a California State C33 Painting and Decorating Contractor license per Sections 7058 and 7059 of the Business and Professions Code.

In 2002, the County also created the T.A.G. program (Totally Against Graffiti) to get out their message of “*Stop Graffiti and We All Win!*”. The T.A.G. program conducts anti-graffiti puppet shows in over 180 elementary schools in Los Angeles County, has a specially-painted 36-foot T.A.G. RV to take to public events and school assemblies, and has partnered with KCBS and Viacom to produce and distribute educational materials, media outreach and prizes for participants. In 2003, Los Angeles County received an Achievement Award for its T.A.G. program from the National Association of Counties.

San Jose

San Jose’s blight ordinance requires property owners to remove all graffiti from their premises. The City’s Parks, Recreation and Neighborhood Services department provides free graffiti removal so long as they have not removed graffiti from that address within the prior six months. If the graffiti occurs at an address for the second time within a six-month period, the department takes pictures of the graffiti and gives property owners notice to remove the graffiti. After ten days of inaction, the case is referred to Code Enforcement, which has the power to issue Administrative Citations of up to \$250 per day of non-compliance. According to Graffiti Abatement Manager Rick Stanton, cases very rarely make it this far and the City’s free abatement program takes care of most cases. According to Mr. Stanton, San Jose’s blight ordinance and 22-staff graffiti program have helped reduce graffiti in San Jose by 96 percent since 1999.

San Jose also provides rewards of up to \$1,000 through its Crime Stoppers program for information leading to the arrest and prosecution of graffiti vandals. Since March 2004, San Jose has paid two informants through its Crime Stoppers program..

CONCLUSION/ RECOMMENDATIONS/OPTIONS

Reducing graffiti in San Francisco requires consideration of both prevention efforts (including increased patrol, prosecution and punishment as well as public education) and quicker and more effective abatement. Some options the Board may wish to consider include the following.

Prevention

1. Empower Public Works, Parks and Recreation or other City officials to assess a civil fine and/or issue civil tickets requiring graffiti vandals to appear before a board of the City as has been done in New York City. This would expand the number of officials authorized to issue citations to include city staff such as public works officials and park rangers in addition to peace officers and increase the chances of catching vandals in the act.
2. Create a graffiti reward program similar to that in the City of Los Angeles to reward members of the public who provide information leading to the conviction of graffiti vandals.
3. Encourage the creation of neighborhood watches, street adoptions¹⁵ and volunteer patrols and provide them with information to help them prevent and abate graffiti. This could include

¹⁵ DPW currently has 10-15 people who have adopted their streets and are cleaning up graffiti.

phone numbers of key contacts at the City (i.e., 28-CLEAN, the SFPD Graffiti Prevention Unit, contact info at each police station, etc.) and information sheets including practical tips on preventing and reporting graffiti vandalism (i.e., taking pictures of graffiti before removing or painting over it, keeping areas well lit, etc.).

4. Establish a Landscape & Lighting Maintenance District (pursuant to CA Streets and Highways Code, Section 22500) for the purpose of financing the costs and expenses of landscaping and lighting public areas to improve their safety and visibility.
5. Form a Business Improvement District to increase the presence of BID ambassadors such as those in Union Square who can assist public efforts to reduce graffiti vandalism.
6. Install cameras in graffiti hotspots as a means of both deterring graffiti and gathering more admissible evidence to prosecute vandals.
7. Work with participating businesses and the school district to secure reduced cost abatement supplies and to conduct public education programs aimed at, for instance, differentiating between public art and graffiti vandalism. This could include, for instance, discounts on paint supplies at area stores for those served a notice of violation from the city.
8. Partner with private organizations to create a public education campaign and leverage scarce city funds for valuable education and outreach.

Abatement

9. Continue to fund and require all new city signage and municipal poles to be painted with paints that have been shown to either repel graffiti or make it easier to remove.
10. Allocate funds to the Department of Public Works to train and hire new Environmental Control Officers or upgrade their color matching systems, large vans, and other removal equipment.
11. Develop and expand the Department's fledgling volunteer abatement effort, possibly modeled after San Jose's program, which boasts over 1,000 volunteer painters.

Further consideration or adoption of any of these measures is a policy matter for the Board of Supervisors.