

May 24, 1993
REPORT TO THE COMMITTEE
ON PUBLIC FACILITIES AND RECREATION

ENFORCEMENT OF GRAFFITI LAWS

This report is a brief response to issues regarding enforcement of graffiti laws raised at the April 14, 1993, Public Facilities and Recreation Committee meeting. At the meeting, Captain Ken Moller stated that there may be less than vigorous prosecution of graffiti vandals by the City Attorney's Office. Chief Deputy City Attorney Hal Valderhaug, the legal advisor to the Public Facilities and Recreation Committee, expressed his belief that when graffiti vandals are arrested or cited by police officers, the Criminal Division is not lax in prosecuting them.

After the meeting, Mr. Valderhaug contacted Captain Moller and asked what he felt the City Attorney's Office should be doing to support the police graffiti suppression efforts. Captain Moller replied that a number of the graffiti cases coming out of the South Bay area were not being adequately prosecuted. Mr. Valderhaug responded that South Bay cases are not handled by our office. Thereafter, Captain Moller wrote a memorandum to Mr. Valderhaug dated April 24, 1993, subject: Erroneous statements made at PF&R April 14, 1993. Captain Moller explained that he erred when he stated we do not prosecute vandalism (see Attachment 1).

There were two other issues discussed at the April 14th Committee meeting that I want to address:

1. The jurisdictions of the City Attorney and District Attorney with respect to adult versus juvenile graffiti vandals; and

2. The City Attorney's graffiti vandalism priorities.

These two issues will be addressed in turn.

1. Jurisdiction of the City Attorney

The City Attorney prosecutes adult graffiti vandals whose offenses are in the City, except for cases in the South Bay area including San Ysidro. By agreement between the District Attorney and my office, we have traded responsibility for South Bay and Poway. South Bay cases are handled by the District Attorney and my office handles Poway cases. This agreement alleviates the necessity for this office to staff the Municipal Court of the

South Bay Judicial District and relieves the District Attorney of the necessity to assign specific attorneys to the Municipal Court of the San Diego Judicial District to prosecute misdemeanors committed in Poway. My office does not prosecute juveniles.

Juvenile cases are reviewed by a county probation officer and, depending on the juvenile's criminal history and the seriousness of the case, they are either referred to the District Attorney for prosecution or to the juvenile traffic court. Most of the graffiti cases are heard by a hearing officer at juvenile traffic court. Under a new program, juveniles are often sentenced to an eight hour graffiti program which involves four hours of cleaning up graffiti and four hours of group discussion on self esteem, peer pressure and the cost of clean-up. The vandal bears the \$50 cost of the program and is usually fined an additional \$54. The program has been in effect for about six months and appears to be successful; there has been little recidivism.

2. Prosecution Priorities

Although health and safety issues are the highest priorities in my office, graffiti vandalism (by persons 18 or older) is treated very seriously because the presence of graffiti in the community undermines citizens' feeling of security in their homes. We prosecute graffiti vandalism vigorously. The primary impediment to the prosecution of graffiti vandalism is the inability to catch the perpetrators.

Police reports of graffiti vandalism are handled by my office from arraignment stage through sentencing stage. Upon conviction, it is the policy of my office to request that the judge impose, along with any other fine or jail sentence, a condition that the person convicted be required to reimburse costs of painting out the graffiti. If there is evidence that the graffiti is gang related, we request "gang conditions" as a term of probation. Gang conditions prohibit the probationer from associating with known gang members, wearing gang colors, displaying gang signs, and carrying weapons. Whether it is gang related or not, vandalism is taken seriously by my office and we do not dismiss provable graffiti vandalism cases. We intend to continue these efforts as long as we have the necessary resources.

Respectfully submitted,
JOHN W. WITT
City Attorney

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Attachment

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