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It's time to rewrite Texas graffiti laws

By **Marc A. Levin** - Express-News

If a graffiti “artist” spray paints your house or business, you could be the one who draws the attention of law enforcement.

Many Texas cities, including San Antonio, Houston, Dallas and Fort Worth, have adopted ordinances making it a criminal offense for property owners who fail to clean up graffiti.

Houstonians and Alamo City residents have 10 days to remove markings, while Dallas allows 21 days. Fort Worth's ordinance allows 14 days and authorizes the city to obtain a lien against the victim's property — with 10 percent interest — to cover the cost if the city has to clean it up.

Dallas also considers it “criminal mischief” to clean up graffiti on public property without following a bureaucratic process that takes many weeks. Technically, then, John Barr, an attorney who lives in the Oak Cliff section of Dallas, has been breaking the law by hiring laborers to remove graffiti from the several blocks surrounding his law office. A typical day's work includes scrubbing markings from lampposts and mailboxes.

In Dallas and other Texas cities, the official process requires the reporting of graffiti through the 311 line, the scheduling of an inspection by a city worker, sending notice to the property owner to remove the graffiti, and ultimately the issuance of a citation if the owner does not comply. Waiting weeks for a non-emergency city inspection before cleaning up graffiti is particularly burdensome, because markings are easiest to remove in the first 24 hours.

Cities have resorted to criminalizing the victim to promote cleanup because they catch so few graffiti offenders. There are better solutions.

First, cities can provide a reward for those who turn in taggers coupled with a diversion program for those who are apprehended. Since those aware of the graffiti tend to be friends or family members, they would be more likely to cooperate if it meant the tagger could avoid prosecution by cleaning up the mess and performing community service.

Victims should also have the right to request a mediation session to discuss the impact of the graffiti and, I hope, receive an apology and a binding restitution agreement from the offender.

When graffiti appears on public property, cities should establish a webpage where civic-minded cleaners like Mr. Barr can enter their names and report the sites where they removed graffiti. This would provide cities the information they need to keep track of graffiti hotspots without discouraging volunteers. Police and code enforcement officers cannot be everywhere at once, so citizens taking scrubbers into their own hands shouldn't have to worry about being caught red-handed.

Cleaning up graffiti on private property without permission is more delicate – technically, it could be trespassing – but cities should consider allowing it at least for mailboxes on the street provided a note is left that identifies the person and the action undertaken.

Additionally, governments can help neighborhoods rid themselves of graffiti. Some cities organize adopt-a-block programs and graffiti wipeout days. Many of Texas' half a million adult and juvenile probationers should be enlisted to satisfy their community service requirements by participating in supervised graffiti clean-ups.

The school system also plays a role. Texas kids miss more than one million school days in out-of-school suspension; such youths are 32 times more likely to commit crimes during those days than students in school. Rather than allowing the devil to make work for idle hands, more of these kids need to be in school, even if it means being in a separate class or an alternative school.

Ultimately, government's central role when it comes to graffiti is to repair the breach of property rights by requiring the offender to make the victim whole. Given that the offender often cannot be identified, the next best approach is to empower victims and neighborhoods to rapidly remove graffiti, not to ensnare them in red tape.

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