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**TESTIMONY 2013**

**H.B. 3494**

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of H.B. 3494, which will introduce a diversion option for individuals convicted of a graffiti offense. This will facilitate positive behavioral change in graffiti artists while helping them avoid the lifelong collateral consequences of a felony conviction, and it will provide property owners relief through restoration of their damaged property.

### **OVERLY PUNISHING GRAFFITI OFFENSES LEADS TO EXPENSIVE, INEFFICIENT OUTCOMES**

Graffiti is defined as any marking, etching, or painting that defaces public or private property without the owner's permission. Despite the belief that graffiti is typically associated with gangs, it is found in all locales and jurisdictions, and in fact only a small portion of all graffiti is done by gang members.<sup>1</sup> Most graffiti is caused by the common "tagger," someone who marks easily accessible locations, sometimes repeatedly, feeling little connection to place or neighborhood.

Regardless of the features or motive behind graffiti, it is considered a crime, and it costs some Texas cities millions of dollars in cleanup costs each year.<sup>2</sup> While the reaction to ongoing graffiti in the community may be to penalize graffiti artists more harshly, many Texas cities are seemingly seeing no decrease in graffiti from such an approach.<sup>3</sup>

What's worse, **punitive approaches to graffiti come with high price tag**, draining city budgets and saddling graffiti artists, many of them youth, with criminal convictions that pose lifelong obstacles, including limited employment and housing opportunities. This lack of access to employment and housing may lead to further criminal behavior<sup>4</sup> and result in fewer contributions to the community's tax base.

### **KEY FINDINGS**

- **Corpus Christi<sup>5</sup> and Houston<sup>6</sup> have invested in a "rapid response"<sup>7</sup> approach to graffiti that has had success.** This strategy involves two crucial components: (1) a community-wide campaign, where citizens detect and report graffiti as soon as it occurs, and (2) the ability of the community to respond to the graffiti within 24 to 48 hours, to remove it as quickly as possible. More specifically, these efforts include neighborhood education, hotlines, and referrals of probationers as clean-up crews from local probation departments.<sup>8</sup>
- **Philadelphia has pioneered the diversion of adjudicated graffiti artists into mural making**, allowing them to express their artistic impulses and be recognized as legitimate artists. Beginning in 1984, the city began offering youth charged with graffiti a chance to conceive of and assist in painting murals that celebrated their neighborhood's achievement and history. The resulting murals created a large economic boost to Philadelphia, and the beauty and variety of the murals were recognized in a report as crucial to the development of vibrant commercial corridors in Philadelphia.<sup>9</sup> The report recommended more efforts like the Mural Arts Program (much of which is funded through private investments<sup>10</sup>), calling such programs "effective and cost-efficient ways of replacing eyesores with symbols of care."<sup>11</sup>

*Solution offered on reverse.*

## COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 3494 BY REPRESENTATIVE MOODY

- **H.B. 3494 will allow a pretrial diversion program, requiring community service and victim restitution, for long-term reductions in recidivism and its associated costs.** Participation in a deferred prosecution program, as based on the consent of the district attorney, will require community service, including graffiti removal where possible, and may involve participation in outreach education focused on graffiti prevention and eradication, youth mentoring in art programs, mural painting, or other available community service opportunities. Furthermore, successful completion of the program may result in dismissal of the charges. This will give a fair chance to individuals who have taken responsibility for their actions, helping them avoid the reentry barriers typically associated with a criminal record.
- **H.B. 3494 creates a new, minor offense level (a Class C misdemeanor) for graffiti that causes up to \$200 worth of damage.** Currently, all graffiti up to \$500 worth of damage is a Class B misdemeanor, which brings with it potential county jail time and the aforementioned collateral consequences.
- **H.B. 3494 also adjusts value amounts for certain graffiti offenses.** Current offense thresholds for graffiti offenses were set in 1993 and do not reflect two decades of inflation. Consequently, the penalty grades for graffiti do not appropriately correspond to the value of the property that has been damaged. In other words, what amounted to a Class C misdemeanor 20 years ago may now constitute a Class B misdemeanor – a de facto “criminal inflation.” Amending the threshold offense amounts for graffiti will save taxpayer dollars otherwise needlessly spent on incarceration costs for increasingly low-level offenses.

### CONCLUSION

Thank you again for allowing me the opportunity to testify in favor of this bill. It will ease the financial burden on property owners, seek to involve community members in cleanup and beautification, and facilitate positive behavioral change in graffitiists, instead of merely seeking harsher penalties that criminalize and punish. This offers the best possible approach to a problem that is not meaningfully addressed through incarceration, and the Texas Criminal Justice Coalition strongly urges you to support it.

## Citations

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<sup>1</sup> C. Thompson & R. Hills, *Congress Paper on Graffiti Vandalism in America – Shaping the Municipal Response*, Paper presented to World Jurist Association’s 24<sup>th</sup> Biennial Congress on the Law of the World, Oct. 23-28, 2011. Available at <file:///C:/Users/jrenaud/Desktop/Graffiti/municipal-responses-to-graffiti-vandalism.htm>.

<sup>2</sup> Julia Narum, Child Development Program Supervisor, City of Austin Health and Human Services [dedicated budget of \$500,000 to \$600,000 yearly for graffiti], telephone conversation with Jorge Renaud, Texas Criminal Justice Coalition (TCJC), Oct. 22, 2012; Lisa McKenzie, Neighborhood Services Coordinator, City of San Antonio [dedicated budget of \$1,008,000 in 2012], telephone conversation with Jorge Renaud, TCJC, Oct. 22 2012; Jerry McDowell, City of Fort Worth Parks Department [dedicated budget of \$464,000 in 2012], telephone conversation with Jorge Renaud, TCJC, Nov. 26, 2012.

<sup>3</sup> “Austin seeing a spike in graffiti,” KXAN-TV report, aired July 19, 2011 (cites 22% increase in graffiti from 2010); available at <http://www.kxan.com/dpp/news/local/austin-seeing-a-spike-in-graffiti->. “CCPD reports increase in graffiti,” KIII-TV report, aired Jan. 27, 2012; available at <http://www.kiiitv.com/story/16565472/ccpd-reports-increase-in-graffiti?clienttype=printable>; Martin Chavez, Director, Graffiti Abatement, Greater East End District Management, in telephone conversation with Jorge Renaud, TCJC, Nov. 20, 2012; Mr. Chavez made the caveat that greater community recognition and reporting may account for increases.

<sup>4</sup> Research has consistently found unemployment to be linked with crime (and crime’s associated costs to victims and communities): “one of the most important conditions that leads to less offending is a strong tie to meaningful employment.” Information from Roger Przybylski, “What Works: Effective Recidivism Reduction and Risk Focused-Prevention Programs,” RKC Group, February 2008, p. 38. *Also note:* Housing barriers contribute to homelessness and recidivism; information from Jeremy Travis, Amy L. Solomon, and Michelle Waul, “From Prison to Home: The Dimensions and Consequences of Prisoner Reentry,” The Urban Institute, June 2001, pp. 35, 39.

<sup>5</sup> Lawrence Mikalajczk, Asst. Dir. Of Solid Waste Dept., City of Corpus Christi, in telephone conversation with Jorge Renaud, TCJC, Nov 13, 2012, discussing the high-priority, rapid-response model initiated in 2008.

<sup>6</sup> Martin Chavez, Director, Graffiti Abatement, Greater East End District Management, in telephone conversation with Jorge Renaud, TCJC, Nov. 20, 2012, discussing the program which initiated in 2001. Program details available at <http://www.greatereastend.com/graffiti-abatement>.

<sup>7</sup> C. Thompson & R. Hills, *Congress Paper on Graffiti Vandalism in America – Shaping the Municipal Response*, Paper presented to World Jurist Association’s 24<sup>th</sup> Biennial Congress on the Law of the World, Oct. 23-28, 2011.

<sup>8</sup> Telephone conversations with Mikalajczk and Chavez, *noted directly above*.

<sup>9</sup> *Commercial Corridors: A strategic investment framework for Philadelphia – Executive Summary*, March 2009, p. 7. Available at [http://www.philadelphialisc.org/pdfs/Strategic\\_Investment\\_Framework\\_Econsult.pdf](http://www.philadelphialisc.org/pdfs/Strategic_Investment_Framework_Econsult.pdf)

<sup>10</sup> A. Markusen & A. Gadwa, *Creative Placemaking*, Executive Summary for the Mayor’s Institute on City Design, a leadership initiative of the National Endowment for the Arts in Partnership with the United States Conference of Mayors and American Architectural Foundation, 2010. Available at <http://www.arts.gov/pub/CreativePlacemaking-Paper.pdf>.

<sup>11</sup> *Ibid.*, p. 9.