

Litter And Graffiti

Report of the 2000-2001 San Francisco Civil Grand Jury

SUMMARY

San Francisco is currently experiencing an epidemic of graffiti, illegal trash dumping and litter upon the streets and sidewalks. Due to these concerns, the 2000-2001 Civil Grand Jury (CGJ) investigated these problems. We are pleased to note that the Department of Public Works is moving aggressively to implement many of the recommendations gleaned from the recently held Clean City Summit. These recommendations, when fully implemented, should help alleviate the problems discussed in this report.

The CGJ recommends that:

- The Mayor adopt an aggressive and highly visible leadership role to address the problems of litter, graffiti, and illegal trash dumping.
- The curriculum at the Police Academy be revised to add sufficient time to acquaint new recruits to the contents of the City and County Police Code regarding litter and graffiti.
- The San Francisco Police Department (SFPD) provide in-service training for existing officers on the contents of the Police Code regarding litter.
- The word "may" in the Police Code, Section 38 of Article 1, "Public Nuisances," be changed to "shall."
- Increased enforcement of the litter laws be undertaken by various departments.
- Monetary penalties for violation of the litter and graffiti laws be increased.
- A reward system wherein citizens who report litter law violations be awarded a designated part of the monetary penalty imposed on the violator(s).
- The Environmental Control Officer (ECO) communication equipment be upgraded for increased efficiency and safety.
- Funding be provided for juvenile counseling as a part of the Graffiti Abatement Team.
- We urge every concerned citizen to contact the Board of Supervisors, obtain the date and time for the public hearing on this report, which is required by Section 2.10 of the County Administrative Code, attend and demand that corrective action be taken immediately to solve the problems of graffiti, illegal dumping and litter.

BACKGROUND

Short History of Previous Attempts to Control Litter, Graffiti and Illegal Dumping

In reviewing the actions of past administrations, we note that despite numerous efforts to solve the problems of littering, illegal dumping and graffiti, not a single administration has succeeded. Some of the actions taken in the past include:

- The Department of Public Works (DPW) started litter patrols in the late 1970s.
- San Francisco began mechanized street sweeping in 1976.
- In 1985, after learning that approximately 25% of litter comes from fast food restaurants, the Board of Supervisors briefly toyed with the idea of a moratorium on fast food outlets. During the same period, the Board approved a \$90,000 study of the composition of the City's litter.

- In September 1990, Mayor Agnos began the policy of forcing parents of juveniles to pay for removal of graffiti caused by them, and announced that the Pacific Telesis Group had given the City a \$75,000 grant for graffiti education.
- In 1990, MUNI Acting General Manager J. Stein stated that costs of removing spray paint from City buses exceeded \$2 million. Chief of Police Frank Jordan promised to make graffiti calls an urgent priority of the department.
- In 1991, voters approved Proposition D, which allowed companies to designate up to 1% of their business tax to go to the San Francisco Neighborhood Beautification and Graffiti Cleanup Fund.
- In the early 1990s, Pacific Telesis Fund and Pacific Bell donated \$12,500 toward removing graffiti. These funds were used to pay for 750 hours of cleanup by the San Francisco Conservation Corps.
- Mayor Jordan defeated Mayor Agnos in part on a pledge to clean the City of litter.
- In 1990, Mayor Jordan and the Board of Supervisors issued a declaration naming April 18-25 as "One Neat City Week," under which banner the Clean City Coalition sponsored cleanup in the City.
- In December 1992, the new Litter Strike Force, a program of the Mayor's Office, DPW, and San Francisco Beautiful was launched.
- In 1997, Mayor Brown suggested that the City hold semiannual "spring cleanings".
- In 1997, DPW divided the City into 10 districts with 88 staging areas as a way to organize the "Great Sweep".
- In May 1998, the "Great Sweep II" was organized.
- In 1998, the "Adopt-A-Street" program was instituted.

In spite of these efforts (and many more) the problem of litter, illegal dumping and graffiti continues to expand. For example, the DPW street cleaning budget increased from \$6.5 million in the 1980-1981 budget to \$11 million in the 1991-1992 budget and to \$24.5 million in the 1998-1999 budget. For 2001-2002, the proposed budget is approximately \$40.4 million. DPW has provided the CGJ with figures indicating that DPW cleaned up over 1.3 million square feet of graffiti during fiscal year 1998-1999 utilizing 23 employees, four vans (equipped with a computerized paint color matching systems) and a powered soda blaster and aerial lift truck to cover graffiti tags a few stories high. Tonnage of trash removed from the streets of San Francisco has increased from 24,000 tons in 1988 to over 48,000 tons in fiscal year 1998-1999, and is still rising. Graffiti, litter, and illegal dumping appear to be magnets that attract even more graffiti, illegal dumping and litter.

Estimated Costs to San Francisco of Litter and Graffiti

The CGJ has been quoted a figure of "in excess of \$22 million" by several City personnel as the cost to San Francisco taxpayers for removing graffiti from City signs and structures. However, the method by which responsibilities and budgets are divided within City departments does not permit a definitive estimation of the costs. Further discussion with the Director of the Neighborhood Beautification and Graffiti Cleanup Fund indicates that the real cost is likely higher. For example, this estimate does not include any costs incurred by private companies or citizens, the Bay Area Rapid Transit System, or some of the hidden personnel costs. We stress that the figure is an estimate, and the estimators acknowledge that it very probably is lower than the real costs.

Recent City Actions to Control Graffiti and Litter

Some recent positive actions on the part of the City to combat the problem of graffiti, illegal dumping and litter include:

- DPW has given wide publicity to its litter hotline (415-28-CLEAN) and receives approximately 4,500 complaints per month.
- The Graffiti Abatement Team (within SFPD) has established two telephone contact points (a) 911 to report violations in progress, and (b) 415-558-5445 to report already present graffiti requiring removal.
- DPW is proposing to the Mayor and Board of Supervisors that the penalty for litter law violations be increased to a minimum of \$400. In some California jurisdictions the minimum fine is as high as \$500, and on highways the maximum penalty is \$1000.
- DPW has increased the number of ECOs to 22 (up from 14), thus enabling DPW to provide two ECOs for each supervisorial district.
- DPW has increased the number of personnel with authority to write littering citations to 50 from the previous staff of 20.
- DPW held a Clean City Summit in February 2001.
- San Francisco hosted the quarterly meeting of the Northern California Regional Graffiti Task Force in April 2001.
- DPW has increased the number of trash bins on City streets.
- DPW recently mailed more than 150,000 letters to property owners, advising them of their legal responsibility to maintain the sidewalks adjoining their property in a clean condition. Similar letters were sent to newspaper distributors, grocery store owners, and fast food owners/managers (see Attachment 1 for copies of these letters).

2000-2001 Civil Grand Jury Investigations

During our investigation of the problems associated with graffiti, illegal dumping, excessive litter, and dirty streets, we interviewed numerous individuals from SFPD, the Police Academy, DPW, private citizens, ECOs, representatives from other County agencies and the president of the California Community Dispute Services. We reviewed the various state laws and local ordinances pertaining to litter and trash including, but not limited to, the Government Code, the Penal Code, Vehicle Code, Education Code and local City and County of San Francisco ordinances. In addition, we attended the first Clean City Summit (February 1, 2001), a quarterly meeting of the Northern California Regional Graffiti Task Force, interviewed the Director of the Neighborhood Beautification and Graffiti Cleanup Fund, conducted numerous ride-alongs with both uniformed police officers and ECOs during the course of performing their official duties.

Graffiti Abatement Team/SFPD

During these many activities, the CGJ was pleased to discover evidence of positive progress in some areas. A Graffiti Abatement Team was established in October 2000. This team has established a website (www.greatestgraffiti.com), and prepared a video outlining the graffiti problem, which is required viewing for all San Francisco police officers. The Graffiti Abatement Coordinator also has regularly scheduled meetings with adjacent jurisdictions to coordinate graffiti abatement efforts.

The Graffiti Abatement Team consists of one person, who is augmented with light-duty police officers as available. The two light-duty officers currently with the Team evidently will be returning to full duty soon, bringing the Graffiti Abatement Team back to one full-time person. Major issues for the Team include: juveniles being able to obtain aerosol paints illegally, the use of etching acid on bus stops, and gangs of taggers. The Team maintains a computer database that shows information regarding offenders, including pictures of the various tags, which can be used to identify habitual offenders. Information is shared with the SFPD Gang Taskforce. The Team cooperates with other City departments and appreciates calls from City departments and from citizens to their hotline (558-5445) regarding the presence of graffiti.

Graffiti damage up to \$400 is punishable by up to one year in jail, a \$10,000 fine, or both. Graffiti damage of \$400 or more can be punished as a felony by up to three years in prison and a fine of up to \$50,000. The Graffiti Abatement Team believes that the current penalties for graffiti are adequate. What the Team is concentrating on is change of behavior. The Graffiti Abatement Team notes that a number of adolescents they encounter have underlying mental health issues (such as lack of self-esteem), particularly with habitual graffiti offenders. The Team has need of access to counseling for these youth. If the causes for such behavior could be identified and resolved, it would result in a large dent to the graffiti problem in San Francisco. The Team is currently investigating possible access to counseling services through the school system since many of these juveniles also have truancy problems.

California Community Dispute Services

The City has awarded a contract to the California Community Dispute Services (CCDS) to adjudicate infractions of misdemeanor citations issued by the ECOs and others for litter and illegal dumping. Three Community Courts have also been organized for the same purpose. The problem of the clogged courts, where illegal dumping and litter citations were originally heard and where they often received a low priority or fell through the cracks, has been partially alleviated. From the onset of this program in January 2000 through February 28, 2001, a total of 2985 citations were referred to the CCDS. Violators elected to appear in 1748 cases at the CCDS or at one of the Community Courts.

In analyzing the statistics supplied by the CCDS, we note that during the period January 2000 through February 28, 2001, not a single citation was referred to CCDS for violation of Section 34 of Article 1 of the Municipal Police Code, which states in pertinent part as follows: "It shall be unlawful for the occupant, or in the absence of an occupant, the owner or lessee, of any building in the City and County, to permit litter to remain or accumulate upon the sidewalk in front of or abutting said building." In view of the condition that exists in the City, we find the non-enforcement of that provision questionable.

Clean City Summit Results

Since the Clean City Summit, the Department of Public Works has embarked on their new District Clean Team efforts. During the District 10 Clean up in February 2001, over 500 volunteers assisted DPW so that over one million pounds of garbage was removed, a major cleanup and landscaping of the Highway 101 offramp to Bayshore Boulevard was completed, corrective action was taken at 194 graffiti sites to paint out 28,050

square feet of graffiti, and over 850 potholes were filled. For more results stemming from the Clean City Summit, see Attachment 2.

Environmental Control Officers (ECOs)

The DPW has recently increased the number of ECOs from 14 to 22 (two per supervisorial district). During our ride-alongs with ECOs, we noted that ECOs in the field had a problem communicating with their home office. The ECOs use a radio to contact their office and regularly had to change channels to speak with a supervisor or co-worker and, at times, were completely out of contact with their home base. This situation should be corrected as soon as possible for both the safety of the ECOs and for more efficient performance of their duties.

In the past, the major burdens of fighting graffiti, illegal dumping and litter have been the responsibility of DPW. We have found that DPW, in the areas we investigated, to be staffed with dedicated, hard working, highly motivated personnel who possess a genuine desire to rid the City of these problems. Working under the constraints imposed (i.e., money, lack of personnel and equipment) they are doing a magnificent job. These problems are so enormous, however, that DPW cannot succeed left to its own resources. DPW needs assistance from other departments, especially in the area of enforcement of the litter laws. The pool of 50 DPW personnel (ECOs, supervisors, and others) plus 300 Traffic Control Officers, with help from the SFPD, can stem the tide of the war on the problem.

Bay Area and New York City Actions

In an effort to encourage more active involvement and reporting by concerned citizens, we recommend that a reward system be established wherein citizens reporting illegal dumping and graffiti receive a designated amount of the monetary penalty imposed on the violator. New York City and the Bay Area Rapid Transit System currently use a reward system.

Analysis

Despite the positive efforts, the Deputy Director of Operations for DPW freely admits that the war against graffiti, illegal dumping and litter on the streets and sidewalks is not being won.

The Mayor and Board of Supervisors must accept full responsibility for the condition of the City. They have both the power and authority to correct these problems. Recently, the Mayor has implemented positive, incremental steps. However, until such time as the Mayor and Supervisors make a firm, determined commitment to rid the City of these problems and exert the vigorous and highly visible leadership required, we cannot seriously expect to see a vast improvement. We note the progress made by the City of New York, where this type of leadership is evident and has received high visibility. We see no reason why similar progress cannot be made in the City and County of San Francisco by using similar incentives and programs.

With some modifications adequate laws currently exist, if properly enforced. Those modifications are:

1. The monetary penalties of Section 37 of Article 1 (Public Nuisances) of the Police Code should be increased. We note

that DPW has recently proposed increasing the minimum littering fine from \$76 to \$135. This increase will not result from any change to the law; rather, instead of citing San Francisco county law, personnel will be cited under California Penal Code, Sections 374.3 and 374.4. DPW has proposed to the Mayor and the Board of Supervisors that San Francisco County law be changed so that the minimum fine for littering or dumping is increased to \$400. We recommend to the Mayor and the Board that these proposed changes be implemented.

2. Police Code, Section 38 of Article 1, "Public Nuisances," designates officers and employees who may (emphasis added) "have the duty of enforcing these provisions of state law or the San Francisco Municipal Code that relate to the littering of private or public, including, but not limited to streets, sidewalks, parks, square or recreation areas within said City or County, the removal or abatement of any such litter from said private or public property or the unauthorized use of litter receptacles." Government Code, Section 14, states that "may" is permissive and "shall" is mandatory. The "may" in Section 38 should be changed to "shall." Such wording as presently exists emasculates the ordinance and makes it useless.
3. Additional personnel and increased enforcement are needed. As mentioned above, DPW has recently expanded the pool of personnel authorized to issue litter citations from approximately 20 persons (primarily ECOs) to 50 persons (ECOs, supervisors, and inspectors from the DPW Bureau of Street Use and Mapping). To depend only on the 50 DPW personnel for issuance of citations in order to stem the tide of the war on illegal dumping and litter is pure folly. Adding the approximately 300 Traffic Control Officers to the group of personnel issuing litter citations provides a chance to stem the tide.

We observe that newsracks are depositories of litter, objects of graffiti, and an eyesore in the City. Newsracks currently are tagged only if they present a hazard to the general public (e.g., broken window, with jagged edges). Once tagged, the owner has ten days to remedy the situation. On the eleventh day, if not resolved, the rack may be seized.

The owner may get the newsrack back if they pay a \$50 fine; if the fine is not paid and the newsrack not redeemed, the rack is then destroyed. Current enforcement of Section 184 of Article 5.4 ("Regulation of Newsracks") of the San Francisco Public Works Code is as follows: for 2000, 1583 citations were issued, and 554 newsracks were seized; From January through the end of May 2001, approximately 660 violations were issued, and 149 newsracks were seized.

The issue of fixed pedestal newsracks is currently in mediation. DPW expects that mediation may take several more months, after which limited installation of the fixed pedestal newsracks will be implemented in selected areas. We have attached recent photographs (see Attachment 3) of San Francisco newsracks, along with newsracks from another California municipality which clearly show the benefits of a newsrack ordinance.

In September 2000, San Francisco Graffiti Busters (www.sfgraffitibusters.org), a nonprofit organization composed of concerned San Francisco citizens, petitioned the Superior Court for an order requiring the Department of Parking and Traffic to remove all graffiti on DPT property throughout the City within 30 days. Although that suit was dismissed on March 29, 2001, an appeal is expected to be filed. We point out that fact to demonstrate that enforcement is so lacking that it has reached such a state of affairs that private citizens feel compelled to seek the court's aid in ordering the performance of the very duties that elected or appointed officials are being paid to perform.

As previously mentioned, Police Code, Section 38 of Article 1 contains a listing of those personnel who "may" enforce the litter laws. We find no evidence of enforcement by those listed, other than health inspectors and ECOs. In view of the use of "may" in that Section, we cannot say that we are surprised. As previously mentioned, to depend on only the 50 DPW citation writers to enforce the problem of litter or illegal trash dumping is unreasonable.

Traffic Control Officers are included in a list of personnel who "may" enforce the state and local ordinances. We believe that this class of officers is ideally situated to enforce graffiti and sidewalk cleanliness ordinances. Many locations with metered parking are also areas that attract litter and graffiti (e.g., Mission Street, Polk Street, Stockton Street, South of Market). In anticipation of the Director of the Department of Parking and Traffic's response that Parking Control Officers do not have time to enforce litter laws, we merely note that good, efficient managers accomplish their tasks even under trying conditions.

During our visit to the Police Academy, we were informed that the contents and existence of local ordinances were given little, if any, emphasis in the curriculum. If new officers are not properly briefed in the ordinances, they cannot properly enforce them. Police policy should include litter abatement, absent more pressing duties. As time and circumstances permit, enforcement of litter, graffiti and illegal dumping laws should be part of the SFPD general orders.

FINDINGS

During our year in office, a foreign visitor to our City approached a member of the CGJ and made the following unsolicited remarks: "You know, you have one of the prettiest, dirtiest, cities in the world" (emphasis added). We collectively are deeply disturbed that

a visitor to San Francisco would leave with that opinion. Both the Mayor and Board of Supervisors must assume a highly vocal leadership position.

1. Section 3.100 of the San Francisco City and County Charter states that "the Mayor shall enforce all laws relating to the City and County." To force the expenditure of over \$22 million of public funds per year for graffiti removal, sidewalk cleanup, garbage and trash removal caused by illegal dumping is not an example of bold and effective leadership. To reach a state of affairs where private citizens find it necessary to sue in court to force elected and appointed officials to perform those duties which they are being paid to perform is not an example of bold and effective leadership. During its investigations, the CGJ has seen several good initiatives taken by the City in response to the problems of graffiti, litter and illegal dumping (see Attachment 2). However, if San Francisco is to resolve these problems, both the Mayor and Board of Supervisors must additionally assume a highly vocal leadership position.
2. Enforcement of litter laws is inadequate. New police officers cannot be expected to enforce litter laws if they have not been adequately introduced to their existence. Until the establishment of the Graffiti Abatement Team, the only class of City employees who appeared to consistently enforce litter laws was the ECOs. Adding the approximately 300 Traffic Control Officers to the pool of personnel issuing citations and placing increased emphasis on police enforcement of litter laws should produce a significant improvement in the City's appearance.
3. The monetary penalties imposed on violators (if apprehended) of the litter laws are totally inadequate to deter such crimes. The low level of such fines borders on making it economically feasible to illegally dump. The maximum penalty of \$76 is an improbable deterrent.

RECOMMENDATIONS

1. The CGJ recommends that the Mayor adopt an aggressive and highly visible leadership role in the war against graffiti,

litter and illegal dumping. The Mayor must insist on mandatory enforcement of existing laws.

Required Response

Mayor - 60 Days

2. The CGJ recommends that the curriculum for the Police Academy be revised to add sufficient time to acquaint new police officers with the local Municipal Police Code regarding graffiti, litter and illegal dumping.

Required Response

San Francisco Police Department- 60 Days

3. The CGJ recommends that the SFPD provide in-service training for existing officers on the contents of the Police Code regarding litter.

Required Response

San Francisco Police Department- 60 Days

4. The CGJ recommends that the word "may" in Police Code, Section 38 of Article 1 mentioned above be changed to "shall."

Required Response

Mayor - 60 Days

Board of Supervisors - 90 Days

5. The CGJ recommends that Police Officers, Traffic Control Officers and ECOs increase their enforcement activities.

Required Response

Mayor - 60 Days

Board of Supervisors - 90 Days

San Francisco Police Department - 60 Days

Department of Parking and Traffic - 60 Days

Department of Public Works - 60 Days

6. The CGJ recommends that monetary penalties contained in the litter laws be increased as indicated above. The CGJ supports this proposed increase, and additionally urges that

the minimum penalty for illegal dumping be increased to \$750 for first-time offenders and \$1000 for repeat offenders.

Required Response

Mayor - 60 Days

Board of Supervisors - 90 Days

Department of Public Works - 60 Days

7. The CGJ recommends that a reward system be instituted wherein citizens reporting graffiti, litter, or illegal dumping should be awarded a substantial portion of the penalty imposed on the convicted violator reported by them.

Required Response

Mayor - 60 Days

Board of Supervisors - 90 Days

8. The CGJ recommends that the field communication system used by the ECOs be upgraded to permit more efficient performance of their duties and to increase their safety.

Required Response

Department of Public Works - 60 Days

9. The CGJ recommends that that funding be provided for juvenile counseling as a part of the Graffiti Abatement Team.

Required Response

Board of Supervisors - 90 Days

San Francisco Police Department - 60 Days

ATTACHMENT 1
LETTERS IN MAY 2001
FROM DEPARTMENT OF PUBLIC WORKS LETTERS
TO
PROPERTY OWNERS,
GROCERY STORE OWNERS/MANAGERS
FAST FOOD OWNERS/MANAGERS
NEWSPAPER DISTRIBUTORS

ATTACHMENT 2
DEPARTMENT OF PUBLIC WORKS
ACTIONS TAKEN FOLLOWING
CLEAN CITY SUMMIT
(FEBRUARY 1, 2001)

ATTACHMENT 3
PHOTOGRAPHS OF NEWSRACKS
FROM
ANOTHER CALIFORNIA MUNICIPALITY
AND
SAN FRANCISCO



Example of newsracks from a California municipality



Example of San Francisco newsracks



Example of newsracks from a California municipality



Example of San Francisco newsracks