



13 September 2010
The Committee Manager
Standing Committee on Public Works
Parliament House
Macquarie Street
Sydney 2000

Dear Ms Watson

I refer to the call by the Standing Committee on Public Works for submissions on the social and economic impact of graffiti, as well as policies and practices to protect public infrastructure. I am grateful for the opportunity to respond at this late stage.

The object of this submission is to inform the committee about the existence of **vandaltrak.com.au**. It is a website designed specifically to receive and collate intelligence on graffiti – contributed directly, in many cases, by ordinary citizens. Its functions are both managerial and forensic. It can assist local councils and public infrastructure agencies to better manage resources for clean ups and abatement measures. At the same time, Vandaltrak's database of graffiti incidents can provide police with valuable intelligence that can result in the identification of offenders and assist in any prosecution that may eventuate.

OVERVIEW OF THE PROBLEM

Graffiti is an emotive issue. Regardless of whether it may have artistic merit, our parliaments and the vast majority of voters consider it ugly, malicious damage to property and a criminal offence. So it may surprise some to learn what an incomplete picture we have of this common scourge on our streets, playgrounds, bus shelters and shopping centres. The true incidence of graffiti and the financial cost of remediation are difficult to quantify. This is due to:

- A low rate of reporting
- A patchwork of systems for collating data on graffiti incidents, clean up programs and abatement measures
- A low clear up rate by police
- The very low proportion of cases in which the police proceed to prosecution

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All of these factors are related. Together, they trap police, local councils, schools, businesses and the public in a kind of policy gridlock. The difficulty in securing a conviction discourages police from proceeding to prosecution, which acts as a disincentive for the public to report graffiti. Some people become resigned to it, stop noticing it, or treat it as part of the urban streetscape. But inadequate reporting hampers collection of intelligence and so the process feeds on itself.

In a rather drastic move to control the problem, the New South Wales Parliament passed the *Graffiti Control Act 2008*, which provided for extremely tough restrictions on the sale, supply or possession of spray cans and other implements. The penalties can be severe.¹ But I believe the current regulatory framework is unlikely to succeed. The reasons are outlined below.

A shift to online sales of graffiti implements

As much as anything else, graffiti vandalism is a subculture. Members display their 'handiwork' and share their experiences via MMS and online, through social networking sites. Ozgraff.com, Powderbomb and other websites sell spray paint and provide what could be described as counterintelligence for taggers.² Blogs and forums give advice on how to avoid detection and arrest.

Low and variable rates of reporting

Until recently, the incidence of graffiti vandalism could only be measured by the number of reports to the police, together with prosecutions and sentencing statistics from the courts. But those sources don't necessarily give an accurate picture, because *reporting behaviour* may vary from place to place. For example, graffiti may be less *prevalent* in one local government area than another, but when it does occur, residents may be *more inclined to report* it to the police. The data from reported incidents tell us the following:

1. Graffiti still comprises a small percentage of malicious damage reports submitted to police.³ The number of reported graffiti incidents has grown, both in absolute and relative terms, but it is coming off a *low base*.⁴
2. Graffiti is much more likely to be reported where there are clear protocols for doing so, or where private property is directly affected. The highest proportion of recorded graffiti

¹ Damaging or defacing property by means of a graffiti implement may attract a penalty of up to 20 penalty units (the offender is liable to a maximum fine of \$2,200) or 12 months imprisonment under Section 4 of the Graffiti Control Act. Possessing a graffiti implement with the intention to damage or deface property may attract a fine of up to 10 penalty units (the offender is liable to a maximum fine of \$1,100) or six months imprisonment under Section 5 of the Act. The Act also expands the definition of graffiti implements so that it includes spray paint, any marker pen and other implements designed or modified to produce a mark.

² Liquid chalk and marker pens are freely available from the websites of reputable sellers of stationery and art supplies.

³ According to *New South Wales Recorded Crime Statistics 2005*, graffiti incidents represented only 8.8 per cent of malicious damage to property incidents recorded by police. Cited in Williams and Poynton, 'Recent Trends in Recorded Incidents of Graffiti in New South Wales 1996-2005', NSW Bureau of Crime Statistics and Research Issues Paper No.34, April 2006, p.1.

⁴ Ibid. Graffiti accounted for 35.8 per cent of the increase in reports of malicious property damage over the 24 months to December 2005. The number of recorded graffiti incidents grew from around 4,500 in 1996 to 9,094 in 2005.

incidents occur at schools (30.5 per cent: 2005), followed by residential (22.2 per cent: 2005) and then commercial premises (17.3 per cent: 2005).⁵

3. Reporting rates vary greatly across local government areas in NSW. In Blacktown in 2005 there were 354 recorded incidents of graffiti, which is equivalent to 127.1 per 100,000 population. In Fairfield-Liverpool, the equivalent was 170, but only 47.8 per 100,000 population. There is no reason to believe that the *actual* incidence is lower in one area than the other.⁶
4. The largest proportion of graffiti incidents is reported to have occurred on Friday nights, between 3.00pm and 9.00pm, especially during winter months (peaking in October).⁷

More research needs to be done in this area. For the moment though, it seems safe to assume that, on balance, people believe it's too difficult and time-consuming to report graffiti. Alternatively, they don't always know to whom it should be reported. Should they call the police, the council, Housing NSW, the bus company, the electricity company or the RTA?⁸ Jurisdictions many not always be obvious. Residents might be unaware that Sydney Water, not the local council or the RTA, owns the bridge over a storm water drain. For many people, the inconvenience outweighs the perceived benefits.

This situation is changing slowly, for two reasons. The first is that s13 of the *Graffiti Control Act 2008* requires local councils (but *not* other relevant agencies, such as electricity and water utilities) to maintain a register of graffiti removal work. In theory, this may reduce the frequent resort to anecdotal evidence and instead provide hard data on the problem, both in terms of recorded incidents and the true cost to the community. But this alone will not work unless:

1. barriers to reporting of graffiti on every class of public infrastructure are lowered; and
2. forensic details are recorded *before* contractors or clean-up crews remove the evidence.

This is why vandaltrak.com.au is *vital*. First, the website enables members of the public to record for themselves incidents of graffiti and makes rangers out of every concerned citizen.

Secondly, councils may outsource their s13 obligations (not to mention part of the associated administrative burden) to Vandaltrak and the community at large. The New South Wales Department of Justice and Attorney General (Crime Prevention Division) submission to this inquiry provides evidence of the appeal that this would have for many councils. In its *Review of Graffiti Reduction Demonstration Projects 2007-08* (Part 3.3 Data Collection), the CPD noted that 'standardised data collection tools' and templates were distributed to eight councils participating in the survey. Councils were asked to collect 'baseline' data for three months. To ensure that

⁵ Williams and Poynton, 'Recent Trends in Recorded Incidents of Graffiti in New South Wales 1996-2005', NSW Bureau of Crime Statistics and Research Issues Paper No.34, April 2006, p.2.

⁶ *Ibid.*, pp.3-4.

⁷ *Ibid.*, p.5.

⁸ For example, a Blacktown Council brochure on graffiti (included in the Blacktown Council submission to this inquiry), which features the heading 'How do I report graffiti on other types of property?' lists *nine* phone numbers of 'relevant agencies'.

procedures were understood, training sessions and follow up visits were made. Despite all the preparatory work, *only two out of the eight* councils managed to comply with the methodological requirements. This effectively precluded meaningful analysis in three-quarters of the councils participating in the study.⁹

Thirdly, Vandaltrak offers a *common platform* for processing graffiti-related intelligence gathered from every local government area *and* public infrastructure agency across New South Wales. Although councils are required by s13 to maintain a graffiti register, the legislation is silent on the format in which it should be kept, and which variables must be recorded. Indeed, there appears to be little thought given to analysis. It is conceivable that many councils will use an Excel spreadsheet, others a database, whilst some may graft it onto existing systems. But this diversity of formats inhibits meaningful comparisons between districts. For example:

- What was the average time taken to remove graffiti?
- How much did it cost to remove it?
- Is there a relationship between response times and the reappearance of graffiti? If so, what is it?
- Do abatement measures (such as lighting) reduce the reported incidents of graffiti for a particular asset? If so, were they cheaper than the cost of repeated cleaning?
- Are the same tags (or different tags by the same suspect) appearing in more than one local government area and on more than one class of public infrastructure?

Finally, as part of its ongoing development, the Vandaltrak website can meet the evidentiary standards required by police when compiling a brief to prosecute offenders. I am developing ways to apply image recognition and handwriting analysis techniques used by expert witnesses.

Low clear up rates

Only rarely do police identify a graffiti offender. In 2005 NSW Police recorded the details of 1,904 persons who were allegedly involved in graffiti incidents reported that same year.¹⁰ Two-thirds of the persons identified were under the age of 18. As a proportion of recorded offences, however, this is actually quite low. In 2009, for example, the clear up rate for *malicious damage to property* offences was only 17 per cent in 30 days.¹¹ Even then, this low figure may *overstate* the success in tracking down suspects because, in some cases, people will only report an incident when the identity of the suspect is known. This suggests that rewards leading to the identification of suspects may be the most fruitful means of apprehending offenders.

⁹ New South Wales Department of Justice and Attorney General, *Crime Prevention Division, Graffiti Vandalism: Review of Graffiti Reduction Demonstration Projects 2007-08* (October 2009), pp.8-9.

¹⁰ *Ibid.*, Table 3: 'Age and gender of alleged offenders in graffiti incidents, NSW, 2005', p.4.

¹¹ New South Wales Recorded Crime Statistics 2009 (NSW Bureau of Crime Statistics and Research, 2010), Table 5.3, p.40

Once an offender is identified, this still doesn't mean that the case will proceed to trial. In 2009 only 10.7 per cent of recorded incidents of malicious property damage had proceedings commence in 30 days. Over 90 days, that increased to just 11.9 per cent.¹² Why is this so?

Difficulty securing a conviction

Police must prove, beyond reasonable doubt, that a person has committed a criminal offence. In the case of graffiti, this is extremely difficult. The offender must be caught in possession of a graffiti implement. Whilst it may be possible to establish a connection between an offender and a specific tag, this does not necessarily prove that he or she is culpable for other acts. It is common for an offender to plead guilty to a single count, but to claim that other tags are the result of 'copycats'. This is reflected in part in the sentencing statistics.

According to data from the Judicial Information Research Service (JIRS), there were only nine convictions under s4 of the Graffiti Control Act during the first three months of its operation. Despite the extremely tough penalties available to judicial officers, not a single custodial sentence has been imposed. The lesser charge of possessing a graffiti implement under s5 of the Act resulted in only five convictions, none of which incurred a custodial sentence.

More data is required and research is ongoing.¹³ However, it is possible that the accused being brought before a magistrate are facing single, rather than multiple counts under s4 and s5. Again, this is where vandaltrak.com.au will be vital. If developed and refined to its potential, the website might become a forensic tool for collecting evidence of *multiple counts* of graffiti damage by cataloguing and plotting where an offender's tags have appeared.

Cleaning up the damage

As mentioned before, there is widespread anger in the community regarding social and economic impact of graffiti and the NSW Government has responded by providing for quite severe penalties in the *Graffiti Control Act 2008*. However, in late 2009, the law was amended further. Adults who supply graffiti implements to minors may be punished, and judges may order offenders to remedy their damage through community clean up orders under Part 3A of the Act. However, on the Judicial Commission data available thus far (until June 2009) only one such order has been made.

¹² Ibid.

¹³ Updates to the JIRS Sentencing Information System, including data for July 2009-June2010 should be available before the end of calendar year 2010.

Vandaltrak could greatly assist a magistrate in sentencing offenders. Section 9B(1) provides:

A court that imposes a fine on an offender for a graffiti offence may make an order requiring the offender to perform community clean up work in order to satisfy the amount of the fine.

Section 9G(1) provides:

The number of hours of community clean up work, specified in a community clean up order, to be performed by the offender is to be calculated at the rate of 1 hour for each \$30 of the amount of the fine (or that part of the fine that is unpaid).

It goes without saying that in order for magistrates to impose fines and community clean up orders commensurate with the quantum of damage, they must have access to a richer, more detailed picture of the problem.

CONCLUSION

Graffiti vandalism is not the only crime with low reporting, clear up and conviction rates. Sexual assault and fraud are worse, to name only two. But they are two crimes that are largely unseen, inherently hard to prove or complex. Graffiti is a much simpler offence, and the evidence is *everywhere* for all to see. It is a costly nuisance, but people are not so concerned about it that they want the police to divert resources away from solving violent crime.

Vandaltrak provides one answer. It involves the community, lowers the cost of reporting incidents and collects data on the true cost of the crime. It can be developed into a forensic tool, which will assist prosecutors in their task of compiling a brief, once an offender is apprehended. This, in turn, will increase the chance of conviction and more serious punishment. This is what the people are demanding.

Vandaltrak is based on a belief that concerned citizens and community groups can share with local governments and providers of public infrastructure responsibility for maintaining graffiti-free neighbourhoods across New South Wales. This is about a partnership between government, businesses, community organisations, individuals and all who believe that hundreds of millions of dollars worth of malicious damage to property is unacceptable and has to stop.

Should the committee require a demonstration of Vandaltrak and its full range of capabilities, I would of course be happy to facilitate such a request.

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