

CENTER FOR EFFECTIVE JUSTICE

March 30, 2005

Texas House Criminal Jurisprudence Subcommittee on Enhancements

Testimony of Marc Levin on HB1440 by Bohac Requiring Graffiti Offenders to Restore Property They Have Damaged

I am pleased to appear before Chairman Hodge and the other distinguished members of this subcommittee.

I represent the Texas Public Policy Foundation, a non-profit organization created 15 years ago to research and inform state policy guided by the principles of limited government, free markets, private property rights, individual liberty, and personal responsibility. The Foundation's Center for Effective Justice was founded earlier this year to study criminal justice issues and to develop and promote new public policy approaches that work to repair the harm done to victims, reduce recidivism, and minimize the costs to the taxpayer.

Under this bill, graffiti offenders would make restitution by either personally erasing their markings or paying the cost incurred by the government, business, or individual in expunging the graffiti. HB 1440 also raises the Graffiti Eradication Fee paid upon conviction from five to fifty dollars. These new funds would be used to enhance graffiti cleanup and prevention programs, including the dissemination of educational materials in schools.

This legislation has two principal benefits. First, graffiti is not only a crime against the property owner who suffers the damage, but it is offensive to all who live in the surrounding community. Moreover, it contributes to an atmosphere of lawlessness that social science evidence suggests leads to more serious crimes for which long prison sentences are often the punishment.

This is the "broken windows" theory advocated by former New York City Mayor Rudy Giuliani when he successfully reformed that city's tarnished reputation. New York City is now, along with Austin and San Antonio, rated among the nation's safest large cities

A 1969 study by criminologist Phillip Zimbardo illustrates this "broken windows" theory. He left two identical unlocked cars in the street – one in a blighted neighborhood and one in a pristine neighborhood. He found the one in the rough area was stripped bare within a day while the other remained untouched for a week. However, that changed when Zimbardo put a hammer through the window of the untouched car, serving as the invitation for it to be destroyed within a day. This demonstrates the proverbial feeding frenzy that can result from an initial indication that the environment is open season for lawbreakers.

Our hope is that, by using tough but smart measures that don't involve incarceration to discourage minor crimes like graffiti, we can intervene early in the lives of youths who may be drifting toward a life of violent crime and send a message that lawlessness will not be tolerated.

In addition to combating a culture of lawlessness, this legislation embodies the powerful but often overlooked concept of restitution. Is it too much to ask for graffiti offenders to either personally restore the property they damage or pay for it to be repaired? What is more likely to make a graffiti offender mend his ways than being required to personally scrub away the mess he has created? By paying restitution, offenders will better appreciate the harm they have inflicted on their victims, a lesson that will hopefully serve as a disincentive to committing future crimes.

We must find new ways to make criminals restore the damage they have done to their victims, not just for graffiti, but also for other crimes as well. Forcing offenders to erase their graffiti from a stop is a good start in this effort and we thank Rep. Bohac for authoring this legislation. I would be pleased to answer any questions you might have.