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Street Art: Its Display in Public Space and Issues within a Municipality

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Street Art: Its Display in Public Space and Issues within a Municipality

A Thesis

Submitted to the Graduate Faculty of the
University of New Orleans
in partial fulfillment of the
requirements for the degree of

Master of Science
in
Urban Studies

by

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Table of Contents

Chapter 1 Introduction.....	1
New Orleans	2
Distinction in Style.....	3
Broken Window Theory	4
Art and Crime.....	6
Misguided Assumptions	7
Methods of Research	7
Legal Analysis.....	11
Chapter 2 Limitations in Existing Literature.....	14
Youth Phenomenon	14
Crime Prevention	15
Reinvention of Public Space	18
Negotiated Consent: A Case Study	21
Chapter 3 Post Katrina New Orleans Street Art	26
NoLA Rising & Michael Dingler	26
Grey Ghost and Operation Clean Sweep.....	28
Lack of Municipal Response.....	32
Local Artists	33
Visiting Artists	34
Differing Perspectives	41
Chapter 4 Elements of Street Art	44
Affront to the Art World	45
Communication	47
Location.....	48
Chapter 5 Legal Framework Governing Street Art	51
Laws Governing Graffiti covers Street Art	53
First Amendment.....	55
Copyright, Ownership, and Intellectual Property Rights	58
Chapter 6 Recommendations for Future Research.....	61
Philadelphia Pennsylvania Mural Arts Program	63
Legal Walls: United Artists Front	65
Streamlined Permitting Process.....	66
Final Thoughts.....	68
Bibliography.....	70
Vita	74

ABSTRACT

Hip Hop graffiti has been marking our urban landscapes for decades. However street art, a much less researched topic, has claimed notoriety in recent years. Much of the existing research groups hip-hop graffiti, gang graffiti and street art together and calls for a uniform response from communities, city officials and law enforcement. While street artists have made their mark in the urban landscapes of the United States as well as internationally, it is important to define the terms “street art” and “graffiti” and where they deviate from one another in order for cities to begin to address these expressions with any level of success. As municipalities grapple with visual public expression—street art and graffiti—a framework must be established taking into consideration legal parameters for both cities and artists.

Keywords: Street art, graffiti, public space, first amendment, spray paint, urban expression, mural arts, legal walls, anti-graffiti, New Orleans, Broken Window Theory, NoLa Rising.

CHAPTER 1: INTRODUCTION

In the years following Hurricanes Katrina and Rita, a street art movement emerged in New Orleans. Local and visiting street artists alike were motivated to speak. Using the streets to communicate hope and to reflect on what the city was experiencing, this movement began a dialogue about art in public spaces. The work initiated a debate within the citizenry of New Orleans and created an opportunity for the city to rethink how it regulates street art and what it officials and the public determine may be worth encouraging and protecting. Street art is characterized by methodical and thoughtful action, one with a strong aesthetic dimension. The works created by street artists often express current events, both political and social and are sophisticated in their delivery. The markings associated with street art are planned, well thought out and involve creating pieces in which artistic and often professionally trained effort is exerted to communicate ideals, messages or thoughts. Street art is distinguishable by its artistic technique including stenciling, screen-printing and woodcuts. Hip Hop graffiti differs from street art in its emphasis is on being “seen” in as many places as possible. It is about quantity, not always quality. Hip-hop graffiti takes form in ‘wild style’ lettering and signatures, which are indistinguishable by outsiders. Hip-hop graffiti is associated with claiming space, to win status and prestige for the writer. Hip-hop graffiti was executed in many American cities in the late 70’s early 80’s on subway cars and cross country railway train cars. The ultimate task was to go “all city”- gracing every line with one’s signature (Miller 2002). By comparison, street artists also talk extensively about the claiming of space, not for fame but for communal use, ultimately making space public again.

Gang graffiti separates itself further from street art in that this distinct style of graffiti is not just about claiming space, but establishing territory (Miller 2002). The intent is to both

intimidate and to construct an identity often in a hostile manner (Phillips 1999). While it is important to distinguish street art from gang related graffiti, gang graffiti is not pertinent to this thesis. In particular, the uses of spray-paint in all three public expressions and the confusion between crews/krewes and gangs has led to misconceptions between these three distinct articulations of spray painted messages in public space. In this research, I will highlight the characteristics of the street art movement and provide evidence for examining the differences and devising appropriate strategies (which may include doing nothing) to manage street art at the city and neighborhood level.

New Orleans

As New Orleans has struggled to recover since hurricanes Katrina and Rita, a cultural resurgence manifested itself in the streets. Artists of all disciplines have been invigorated, breathing new life into the city's social aid and pleasure clubs, actors, and musicians. Not only have local street artists used the urban landscape to articulate their love for the city, the injustice to their neighbors and opinions about politics, but also they have created a vibrant street art culture. Outsiders have come to encourage and attest to the experiences of New Orleanians. The city has experienced a renaissance post-Katrina in many disciplines of its art scene, but what transpired on the streets was exceptional. Understanding what enticed artists from other parts of the country and world to New Orleans and what they hoped to accomplish can help explain the street art movement.

Art and culture have played a significant role in New Orleans history and will continue to do so. It is difficult to measure the impact art has in cities but it is important to understand its significance and effect, particularly in public space. It is important both for municipalities and residents of our cities and neighborhoods to acknowledge the range amongst public displays and

to understand rather than fear the diversity this particular type of spray paint expression brings to the urban landscape. This research explores the motivations, locations and messages generated by these artists in the public space in New Orleans and how cities can determine what should be encouraged or discouraged.

Distinction in Style

Disinvestment in the United States inner cities brought on by the suburbanization, interstate highway act and disinterest and lack of development created an environment in which traditional graffiti along with gang related graffiti were birthed. Although graffiti dates back to as early as 3,000 BC in the form of prehistoric cave paintings and pictographs, the modern form found in hip hop graffiti owes its origins to the street kids of Philadelphia around the late 1960s. Graffiti was used as a form of expression by political activists, and also by gangs to mark territory (Bomb It).

Around the same time, inner-city youth in the Bronx replicated this expressive movement in their borough, and eventually making New York the new hub of graffiti (Miller 2002). These inner-city youth were living in low income and impoverished neighborhoods often without employment opportunities. This new form of expression gave opportunity to get their names out, giving them the recognition, claiming space and reputation for themselves. Graffiti tagging soon moved from local streets to subway cars and trains where the focus became to achieve “all-city”, moving beyond individual neighborhoods. Tags became more complex as graffiti writers desired to make their name more prominent. Competitiveness also grew as "getting up" became the most important thing a writer could do. Quantity and quality in graffiti writers tags grew as the more places the writer's name appeared and with

distinction; the more people viewed their tag, the more famous the writer would become (Gomez 1993).

Historically, cities have been mostly reactive, struggling to understand and control hip-hop graffiti. Through this research, I hope to challenge municipality's current practices and relationships with hip-hop graffiti and to call attention to the inherent distinctions found in street art, in both form and function. In better understanding each movement, cities can begin to approach the movements proactively with targeted strategies. For municipalities and their leadership, no framework specifically addressed street art. Increased visibility, notoriety and popularity of street artists and their work have forced cities to questions past response and to rethink models of censorship and sanction as well as define artistic excellence. This research looks to past research both for best practices in developing a framework from which planners, city leaders and communities can begin understand urban expression and also past mistakes in order to initiate a proactive measure to establish a successful approach to street art.

The Broken Window Theory

Many cities look to the broken window theory in their approach to both hip-hop graffiti and street art. The theory states that the mere perception of disorder, even with seemingly irrelevant petty crimes like graffiti or minor vandalism, precipitates a negative feedback loop that can result in crime and violence (Kelling and Coles 1993).

The tenets of the theory state that the extent and presence of graffiti may cause people to fear walking in their neighborhoods and prevent them from feeling safe and secure in their communities. The theory claims that the appearance of litter, broken windows and graffiti create a sense of irreversible decline which prompts people to either abandon the community in which the unwanted conduct exists or hinder future growth and prosperity for the community. Simply,

graffiti creates a sense of irreversible decline (Kelling and Coles 1993). The theory was first published in Atlantic Monthly in March of 1982 and spoke of graffiti as a representative of disorder and unruliness and thus is a visible sign of lawlessness and threatens the quality of life' of residents within the given neighborhood, "a hindrance to private property and to the success of businesses"(Kelling and Coles 1993).

The Broken Window Theory received national attention during Rudolph Giuliani's term as the mayor of New York City. In an interview with the Academy of Achievement, Giuliani remarks on the process of implementing Kelling and Coles' theory. "So we started paying attention to the things that were being ignored; aggressive panhandling, the street-level drug dealing; the prostitution; the graffiti, all these things that were deteriorating the city. So we said, 'We're going to pay attention to that,' and it worked. It worked because we not only got a big reduction in that, [the unwanted action] and an improvement in the quality of life, but massive reductions in homicide, and New York City turned from the crime capital of America to the safest large city in the country for five, six years in a row"(Giuliani 2008).

This theory has since guided many police departments, social policy makers and attitudes of many anti- graffiti activists on issues of criminal activity and quality of life issues The idea that graffiti signals a space is uncontrolled and/or uncontrollable makes authorities troubled and prompts action to reassert authority and power. City administrations control and respond to graffiti based on this theory, and in response remove and criminalize the expressions found in the public space. In this research, I will argue that the Broken Window theory is not reasonable logic to tackle hip-hop graffiti or street art.

Hurricane Katrina brought pain, heartache and trial to the city of New Orleans but also openness to an opportunity to think about the ways cities work and react to urban issues. As New

Orleans' struggled to survive, its rebirth was displayed on both the national and international stage and the world watched as creative forces began to re-emerge. New Orleans is the birthplace of jazz, the creator of remarkable Creole cuisine and a possession of artistic fervor unmatched by most cities. In New Orleans, everything is an art form. In the months and years following the storm, volunteers poured into the city, willing to help in whatever way they were able, artists included.

This influx of new ideas and people brought street artists Banksy, Swoon, Michael De Feo and Dan Witz in the five years after the storm. These formally trained artists with their successful national street art careers came with the enhanced awareness of New Orleans' struggle. This paired with the attention granted by Fred Radtke's vigilante eradication of street art led to an international spotlight on the local street art culture. This sequence of events created an opportunity to look deeper into current urban policy surrounding graffiti and reveal the inherent differences in street art and hip hop graffiti. Once this distinction is made, municipalities are able to move forward with more progressive and successful policy.

Art and Crime

As street art is both art and crime, it is an issue of great significance to local communities, local governments, police, property owners and public transportation agencies. Individuals within these groups can be influenced in various ways as expressions of all sorts make their way into public space. While some portions of a community find the activity and the results attractive, others see it as an index of social decline and criminal activity. Local government agencies and public transport authorities make significant financial outlays in graffiti prevention initiatives and removal schemes targeted at hip hop graffiti, ignoring the differences in the form and function of street art expressions. Financial costs are great to private

households, city governments, local traders and schools in engaging and often removing public displays of expression.

Street art is a more complex phenomenon than many policy approaches and public discussions acknowledge or understand. The framework discussed in this thesis differentiates street art from graffiti. Incomplete and stereotyped models of graffiti production limit the city's effectiveness in implementing deterrence and removal tactics. It is also important to question if public expressions are a problem needing intervention.

Misguided Assumptions

The many unchallenged assumptions about street art leave room for new research. Most literature approaches the topic of hip-hop graffiti from either a crime prevention perspective or as a youth phenomenon within culture. While some literature addresses the street art movement from artistic and community-building viewpoints, most literature neglects to acknowledge the differences in hip hop graffiti and street art. While some authors examine street art as something to be controlled, and discuss issues of power, subversion and territory and its removal from the public arena, others address it purely from its right to exist. Both perspectives fail to address the street art movement as something to be supported and encouraged. In this thesis, I argue that cities have more options than to advocate for street art's removal.

Methods of Research

A variety of methods were used because of the complexity and legal nature of the research problem. I approached my research from two perspectives, the artists and creators of street art and the municipalities. Through initial research, it became clear the importance to approach the research from an insider's perspective through interviews and case study research.

The legal parameters that govern the expressions in public space also play an important function in understanding the parameters in which cities function and can assert control over public space.

Through a combination of interviews, panel discussions with street artists as well as media sources and blogs, I was able to assemble and interpret the experiences in New Orleans and how they relate to the larger street art movement. People are reflexive and capable of explaining the world around them and the way they see it. Through ethnographic process, I realized that this group is consistently misspoken for because of possible legal action, which prohibits the writers/artists from coming forward to challenge the communication about them. The illegal nature of the art form also creates difficulty in finding research and literature that explores the culture including the lives and experiences of its members. Therefore, I turned to individuals who were willing to share their experiences and who are active in the street art community in New Orleans .

For many of the artist's fear of legal prosecution, throughout the research findings, only their tags will identify some of the artists. Michael De Feo, Dan Witz and Michael Dingler all straddle the legal and illegal worlds of street art, showing in galleries and also placing work on the street. They were comfortable having their identities revealed. However, Gabe, Banksy and Swoon operate in strict anonymity and their identities are unknown. In consulting the current research in film, texts as well as Internet sources such as blogs and websites and first person interviews, it became clear the importance and caution needed in representing a segment of the population, which has a legitimate fear of legal persecution. In this vein, members of the street art movement have been traditionally silent in the media and pass on opportunities to discuss their art form publicly because of the legal parameters.

When conducting interviews, I knew it was important to understand how the subject identifies with place and their interaction with it. By conducting one on one interviews and attending the various panel discussions, I was able to discern patterns and find relationships with the wider culture. The case study model allowed me to obtain a full body of information about the events in New Orleans and then to view the cultural circumstances surrounding them and to apply them to the broader scale of urban settings outside New Orleans.

The interview with Michael Dingler was approached after ample information about the local New Orleans scene was gathered and with the desire to discuss and explore more specifically Rex's role, background and involvement in the movement in New Orleans.

Rex was chosen as a candidate for my research because of his involvement with NoLA Rising and his connections to the greater New Orleans street art community. As the founder of a public art project and his conflicts with Fred Radtke allowed for him to remark on the current state of the street art culture from multiple perspectives. Rex is also a good candidate for the research as a local New Orleanian. He understands and can articulate the nuisances of the city and is also easily accessible for follow-up interviews or questions.

Through the interview process with Rex, I was able to also connect with visiting artist, Michael DeFeo. Rex introduced the project to him through email and informed me of his upcoming visit to New Orleans. I was able to conduct a phone interview with the DeFeo and discuss his draw to New Orleans but also his work more broadly. Another visiting artist, Dan Witz was contacted through a street art panel discussion facilitated by the Louisiana Artworks. These panels were invaluable in both, networking with the street art community and hearing/recording their thoughts on their art and experience in New Orleans. Attempts were made to reach and interview both Banksy and Swoon, but were unsuccessful. Banksy's visit

played a critical roll, legitimizing what was already happening in New Orleans and highlighting local street artists and encouraging other nationally recognized artists to follow behind him to complete work in the city and was included in the research. Swoon also speaks openly about her time in New Orleans through both Internet blog interviews and documentaries in which her work is featured. While first hand interviews are ideal, other sources provided valid information on these two street artists.

By including a case study in my research model, I was able explore and explain the various links between Dingler, Gabe and Radtke and the link the visits made by Banksy, Swoon, Witz and DeFeo. This was achieved through three components, the first being the street artist Banksy and his trip to New Orleans in August of 2009. In my research, I sought to gather information about the artists' background and work created in/for New Orleans. As a one on one interview was not possible, I relied heavily on books published about the artist and by the artist as well as the blog included on his personal website, and press coverage on his visit to New Orleans. As a formally trained artist myself, I relied on my education in order to analyze and identify the work created in New Orleans.

The second component of the case study focuses on Fred Radtke and Operation Clean Sweep. Local newspaper articles were collected dating back to 1997 when Operation Clean Sweep was founded and continue until the present time. An interview with Fred Radtke was not granted but extensive opinions where gathered from the Operation Cleans Sweep blog. On his website, Radtke openly shared and defended himself and his organization to the local press and various street art complaints which were lodged against him. It is important to understand what is at stake for Fred Radtke in his mission of eradicating graffiti from the city of New Orleans. His

reactions and feelings produce an important viewpoint in understanding the context of the problem in the research.

The third component of the case study is Rex's involvement in the local street art scene, his battles with Fred Radtke personally as well as Operation Clean Sweep and the sub sequential occurrences that followed. It was Rex's altercations with Radtke that drew both local media outlets to comment and in effect and caused Banksy and other artists to pay visits to New Orleans and create work there. Local newspaper articles between the dates of August 2008 and December 2008 were collected and analyzed. These news sources include: *The Gambit Weekly*, *New Orleans City Business*, *New Orleans ShopNews*, *The Trumpet* and *The Times Picayune* as well as NOLA.com. Articles were obtained through web-based databases such as Lexis Nexis and online archives of the above-mentioned media outlets.

Banksy's visit coincided with the third anniversary of hurricane Katrina and touched on many disaster related themes as well as the Grey Ghost (Fred Radtke). Media sources were consulted and searched for the terms Banksy, Grey Ghost and Rex. Background on the street art scene was also gathered, documenting relevant activity such as the Press Street mural blotting and the reactions from various local communities. I also consulted Banksy's book, released in 2005. While this text went to print before his trip to New Orleans, the commentary and insight to past works highlight pieces completed in the city.

Legal Analysis

In conducting a legal analysis of graffiti law both primary and secondary sources were consulted. Primary sources gain their authority from the rules of law and are controlled by courts, local and state government and individuals. These include statutes, regulations, court orders and court decisions. Index volumes, case reports and case digests were consulted to find

relevant rules, regulations, court and case decisions. I also drew upon Shepard's Citations to provide a list of all authorities citing in a particular case, statute or legal authority dealing with graffiti.

Secondary sources gain their authority through trial and practice and commentary on the law. These resources include law review journals and articles in legal publications. I consulted legal encyclopedias, treatises, and American Law Reports (ALR). The ALR listed every case in every jurisdiction in the state of Louisiana in which graffiti was discussed. This tool enabled me to locate and decipher legal authority and provided both summary and interpretation of the law surrounding graffiti. Many articles provided citations to other articles leading to additional authority and restatements.

Legal sources were accessed through West Law, an online database supplied by Lexis Nexis at the Supreme Court Library in downtown New Orleans. The library also contains state and local law collections. I searched by associated words that are relevant to the research like graffiti, public art, street art, 1st amendment and art, damage to property, trespassing, anti-graffiti, aerosol spray can, public space and art, public expression, and defacement of property. I then expanded my search to include terms that would frame the graffiti issues within the urban center. These included 1st amendment rights to free speech (and the Miller test), expression, possession, trespassing, property rights, and copyright.

I also reviewed the City of New Orleans' mural permitting process in order to understand the city's current position and actions. The New Orleans City Council website was my main resource as they are the evaluation and permitting authority for murals in the city. Most of the information was supplied online, but details were supplemented by direct emails to appropriate council members. The various ordinances passed by the council governing mural and graffiti

activity were located through the Law Library or were found in the online city council archives. Additionally, I explored the legal limitations surrounding graffiti and street art as it applied to issues of ownership, copyright and intellectual property. This was executed by consulting various case studies as well as legal papers, trials and news articles surrounding these issues. Sources included the *New York Times*, *The Yale Herald*, *Arts Law Centre of Australia*, and the *Wall Street Journal*. In the research, many issues are raised about ownership, appropriation and intellectual property and were explored in the court system and public opinion. Jurisdictions outside New Orleans and Louisiana helped to inform the research as they have extensive history and experience with a rich street art culture.

CHAPTER 2: LIMITATIONS IN EXISTING LITERATURE

Often in the literature, the definition of graffiti (including street art) is unclear; any public markings are deemed graffiti. Most scholars who have approached the subject fail to define the type of graffiti they are studying, leading to broad and diffuse conclusions. In the existing literature on crime prevention, graffiti and street art are commonly studied as something to be controlled. These perspectives provide limitations. They neglect the ambiguities in the art form's various manifestations and expression in a particular place. Research that explores street art specifically is limited. A large portion of the literature addresses hip-hop graffiti, the bombing of trains, tags, throw ups and political graffiti, while neglecting the diverse activities associated with street art. In reviewing the existing literature, I found the definitions and discussions surrounding graffiti and street art fail to explain what has occurred in the streets of New Orleans.

Youth Phenomenon

Ethnographic and sociological researchers have endeavored to explain graffiti's manner of production, its appeal to writers and its rise as a popular activity (Lachmaan 1988, Ferrell 1995, Castleman 1984, Carrington 1993). Particular attention has been paid to graffiti as an aspect of hip-hop culture. It is the advent and expansion of hip-hop that provided the impetus for graffiti to take on some of its contemporary forms including street art. As hip hop music increasingly embraced a type of "gansta" ideology, graffiti's association with this musical form contributed to the popular linking of graffiti with youth gang culture and its criminal activity (Lachmaan 1988: 272).

Rob White's (2000) analysis of graffiti considers the expression as a racially charged youth experience. He examines graffiti and city's anti-graffiti campaigns in relation to social inequality, vulnerable populations, and the disadvantaged members of the city. He also points to

the connection of disorder and crime with graffiti expressions. He quotes Ferrell saying, "Within relationships of power, inequality and marginalization the control of cultural space is contested: while powerful adults attempt to define and impose cultural space, less powerful young people attempt to unravel this imposition, to carve out their own spaces for shaping identity and taking some control over everyday life" (White 2000:265). In an earlier article, Ferrell (1997:22) lists "high levels of unemployment, poverty, suicide, job insecurity, cutbacks in social welfare, the tax system and the desire to exercise autonomy and to challenge mainstream values" as the motivation for graffiti. As public space has grown ever more regulated and restricted, and the question of who has the right to occupy public space becomes apparent (Ferrell 1995). The authors create a world of "us verse them" and set up a structure where the fight for a voice is presented as an uneducated and adolescent group, pushing against the power structure.

Crime Prevention

A widespread stereotype in academic criminological studies is the assumption that the presence of graffiti in an area signifies vulnerability to personal and violent crimes. The main criminal activity associated with graffiti however is stealing paint, which most often occurs in a different location and without personal risk to local residents (Skogan 1990). In the literature dealing with the criminality of graffiti, the focus is the damage to the writing surface, its effects on the visual field and additional damage to property and fixtures such as locks, fences, gates and doors. Halsey and Young (2006) take a different perspective however and argue that all forms of writing are not reducible to vandalism. "There are, as shall be seen, certain dimensions to graffiti - such as motivations of various writers and public reactions to certain images - which contradict graffiti's' orthodox association with the broad category 'vandalism' (Halsey and Young 2006). They go on to argue that graffiti's ambiguous status as both art and damage requires

municipalities to take a deeper look and recognize there may be markings that require validation as at least partly distinct from more rudimentary or consciously formulated acts of vandalism (Halsey and Young 2006).

Halsey and Young (2002) explore past responses in their article "The Meaning of Graffiti and Municipal Administration" in order to offer a survey of what has worked to diminish unwanted markings while recognizing that all markings/expressions are not unwanted. The authors characterize municipal response to graffiti into four categories: removal, criminalization, welfarism and acceptance. Each response is discussed and introduced explaining its ramifications in the urban setting. The authors do not advocate one response over the other, but acknowledge that each response is ineffective alone and that no response is necessarily better than another. The first response covered is removal. The writers explain that in this mindset, graffiti is seen as a problem and in turn is not appropriate in either public or private space. Within this model of thought it is vital for the space to be restored to its proper, original condition of order and normalcy. This is most often accomplished by either removing the 'piece' by buffing over it, or peeling away whatever may have been adhered to the wall or structure. With the model, graffiti is identified by the public and brought to the attention of governing officials. It is then tasked to the City Council who then executes its removal either by contracted individuals or volunteers.

Under criminalization, all graffiti must be reported to the city and graffiti writers who are identified are then prosecuted. Graffiti is viewed as instrumental in neighbors' fear of crime and in that sense directly related. In this model, graffiti is a problem dealt with by the police, not the City Council. Often the criminalization and removal of graffiti are tightly linked, as offenders are often the ones required to complete community service by removing theirs and others' graffiti. Many cities keep a database of tags in hopes of linking writers to their work. Under this strategy,

"zero tolerance" is often the mantra, persecuting all graffiti, including murals, tags, street art or slogans under the law. Each is viewed equally as criminal damage and the writers in turn are viewed as miscreants to be detained, penalized and prevented from writing again. In this approach, deterrence plays an active role alongside criminalization. If deterrence is ignored, writers when released will find clean surfaces and only tag again. Deterrence is most often achieved through large fines and the threat of incarceration (Halsey and Young 2002).

Within the welfarist model, Halsey and Young (2006) discuss the belief that if the youth stay busy, incidents of graffiti will be reduced. This strategy often involves outreach through youth volunteers or after school programming. This response is based on the assumption that only young people practice and execute graffiti styled markings. The idea behind this model is to deflect the young person away from graffiti by engaging them in some other community-sanctioned activity deemed more appropriate. This attitude is often paired with removal as well as the criminalization of writers who are caught.

Lastly, the authors consider acceptance a fourth response. Acceptance often involves the commissioning of murals, often by a city agency to be completed by graffiti artists. The city may also educate the community on the nature of graffiti as well as establish workshops and public walls to improve aerosol techniques in young writers. The belief is that while both creating a greater caliber of artistic expression and setting a standard for the expression graffiti can become a controlled expression (Halsey and Young 2002).

Councils who embrace the acceptance strategy still reject traditional tagging, but expect that unauthorized tagging may decrease through these efforts. Their hope is that through the education and city devoted graffiti sites - writers efforts will be concentrated and reduced in unwanted areas. The community will also have a better understanding of the practice and

appearance of graffiti and murals present in their neighborhoods alleviating much of the fear traditionally associated with graffiti. This tactic does not necessarily aim for a graffiti free urban landscape, but instead carefully managed space. Acceptance requires appreciation, and appreciation requires understanding of graffiti and street art culture.

Reinvention of Public Space

In “Reclaiming Urbanity”, Corijin and Groth (2006) present the concept of ‘informal actors’ that effect current urban policy by their short-term use of indeterminate space. The authors point to the deindustrialization of the city and the process of forgetting space for the appearance of impromptu, untraditional urbanization. They link these interventions to multiple motives: “marginal lifestyles, informal economies, artistic experimentation to deliberately open transformation of public space”(Groth and Corijin 2006: 512). They argue that the overlooking of space provides “equal access and equal representation and a high degree of social inclusion” for members of the community (Groth and Corijin 2006). The authors state that when space is forgotten by the sanctioned urban agenda, the community will fill the gap. The authors present several case studies in which groups intervened in abandoned public space.

In the early part of the 1990’s, two artist collectives in need of affordable studio space inhabited an abandoned warehouse in Helsinki, Finland naming it the Makasiinit, gradually transforming the space into a hub of grassroots urban culture. A citywide discussion erupted when the mayor declared the warehouse area a “vagabond space on the most valuable land in Helsinki” (Groth and Corijin 2006: 510) and made plans to expand the nearby city park and include a music hall. The authors catalog public discussion that touches on the significance of deciding whose vision in the city of Helsinki should impact the future and guide urban planning policy.

The authors argue that the transformation of these spaces outside of traditional planning paradigms causes concern; civic authorities face the challenge of deciding whether to allow unsanctioned activity to continue while some citizens desire and appreciate it but others want to move ahead with plans. The authors suggest that as space becomes homogenized in the desire to increase mobility, the unintended effect is social and cultural segregation for a portion of its population” (Groth and Corijin 2006: 520). They advocate the need for “uncontrolled non-commoditized places that is socially sustainable and capable of integrating a mix of socio-cultural, economic and political activities” (Groth and Corijin 2006: 445). Ultimately, the authors call cities to understand the need for ‘free zones’ and that all culture cannot be planned from the top down, but often rise from the bottom up (Groth and Corijin 2006).

There are contrasting views of graffiti in the literature. Ferrell (1995) has a similar approach to White, and sees graffiti as a subcultural activity performed by a subculture group. This thread neglects the complex nature of the work and depicts street artists as members of a fringe society. On the other hand, talking about graffiti as a significant aspect of the negotiation of contemporary social space in the thread of Groth and Corijin neglects to address the legal parameters that public space brings. Groth and Corijin (2006: 515) sum this up saying, “In a Post-Fordian society - space is functionally and economically shared, but subject to an increasing social and cultural segregation.” They argue that graffiti (and in fact street art) acts as a tool to reclaim urbanity. Many of the current contributors in the literature begin to explore the intricacies of street art (and graffiti) as art and acknowledge it within a specific, tangible, urban locale. However, they neglect to understand the purpose of given location and therefore cannot explain why planned areas for expression fail. It is important then, as cities craft policy surrounding street art, that they consider not only best practices but also examine what hasn’t

worked. It is also important to assess Groth and Corijin's claims surrounding a societal need for unplanned, uncontrolled space.

M. Gomez (1993) draws distinction between 'graffiti art' and 'graffiti vandalism' "Two particular classifications encompass most types of graffiti and the motivations behind it. First, graffiti art describes graffiti works that exhibit many of the characteristics of pieces normally termed 'high art' or 'folk art' the more intricate works of graffiti entitled pieces belong in this category because they result from a desire to create artwork. Second, graffiti vandalism describes those mere scrawling that are motivated by a desire to mark territory, create notoriety or show one's defiance of the law and society"(Gomez 1993: 658).

Halsey and Young agree and find the current definition of graffiti in the law to be antiquated and unaware. They remark,

What exactly is the nature of the harm caused by marking various surfaces? It is necessary at the judicial level to define graffiti as vandalism? Are the persons who tag trains, buses, schools and so forth one in the same as those who slash tires, break windows and commit arson? Should we call "criminal" the person who uses the side of an office block to publish a rally on gay and lesbian issues or environmental or politics or reconciliation and indigenous rights? (Halsey and Young 2002: 172).

The current law neglects to deal with graffiti as something other than property crime or a sign of sub cultural youthful discontent, leaving city officials with meager options or guidelines.

Rob White (2000) echoes Halsey and Young (2002) and insists local knowledge is required to determine who is executing the graffiti-styled expressions and why. White points to the importance in identifying the type of markings and discerning who is affected and its context within a given neighborhood before governing bodies should act. He also emphasizes the importance of determining which kinds of expressions are perceived to be the problem in communities (if any at all) before determining the essence of the problem (White 2000).

White also pushes for a redirection of a “negative” form of graffiti into city approved community projects. He gives an example of a type of intervention provided by city officials in Western Australia focusing on safety education murals painted, vividly and in the graffiti style on bus shelters. He hopes with this kind of community-based venture, not necessarily to eradicate it but to contain the expressions and regulate the art form. He states, “The intention therefore is to shift the nature of this culture in ways that will channel the graffiti production along more socially acceptable lines and determined by authority figures” (White 2000: 2).

Negotiated Consent: A Case Study

Alison Young (2010) draws upon her past research and her time in Melbourne, Australia to develop a strategy in which she believes takes a more progressive approach to graffiti and street art management. In her work, she acknowledges the invisible and ordinary ways a city goes about creating cultural products. However, cultural practices often bring attention, creating great debate and producing controversy in realms of planning, legal discourse and public opinion. With extensive research in the motivations, experiences and interests of graffiti writers as well as a strong understanding in the regulatory practices employed in the past, she set out to set forth a new plan. She argues that often in graffiti policy, problems are identified and solutions delivered – omitting the input from writers and artists.

In her “Draft Strategy” she presented a plan that was inclusive, informed and equitable (Young 2010: 100). Drawing on neighborhood organizations, business stakeholders, artists, municipalities and council districts, she strived to validate all interests and to find fairness in her strategy. As much of the research mentioned earlier depicts, most stakeholders in Melbourne favor the criminalization of both the expressions and the artists, creating an atmosphere of zero

tolerance. Her strategy however argues against zero tolerance and instead advocates for zones of tolerance: zero tolerance, limited tolerance and self regulated space.

Young's policy also attempted to be equitable, not only addressing the rights of property owners to remove graffiti, but also maintain it if they wish. This part of the strategy pushed the council to acknowledge the desire in some cases for property owners to conserve or in some cases commission artwork on their property. As these approaches are pivotal to the success of the strategy, the author felt that engagement with the communities creating the art was vital to a favorable outcome in communities. This was achieved by insisting on a partnership model where writers and artists, residents and businesses come together to generate opportunities for collaboration in pre-determined spaces in order sharpen and refine skills. The last component of Young's strategy is education; education for the community, the governing bodies and the artists themselves. Most importantly, for the success of the overall strategy, street artists were educated on the aspects of private versus public space and the types of zones.

In a 'zero tolerance' zone graffiti will not be sanctioned or allowed to remain. In a 'limited tolerance' area, the outcome would be decided by property owners and the third self-regulated zones allow graffiti or street artists to refresh or enliven the walls when deemed appropriate. The zones of tolerance were chosen through large-scale dialog with stakeholders and the community. The notion of 'rights' was re-deployed: instead of opponents of graffiti being the only stakeholders able to assert a 'right' (to remove graffiti), Young's strategy allowed people who saw cultural or worked in a zone of limited tolerance or self-regulation to assert the right to retain the graffiti in their area .

Unfortunately, Young's "Draft Strategy" was never put into practice but abandoned for the "Graffiti Management Plan" in 2006 that fell back on out of date principles relying on

eradication, criminalization and erasure (Young 2010: 99). The new plan, the author notes showed lack of understanding of the cultures of graffiti and street art leading to a permit system for both the commissioning and retention of street art. Later in 2007, the Graffiti Prevention Act enabled the prosecution of writers and artists; increased penalties and powers associated with rights to remove graffiti from private property (Young 2010: 99). The new act also created new police power to stop and search citizens believed to be carrying tools as well as two-year prison terms and fines up to \$26,428 (Young 2010: 99). Alison Young acknowledges the inherent differences in types of graffiti and offered up what she believed to be an equitable, inclusive and informed strategy to negotiate the presence of street art in the cultural life of a city understanding not all forms should be permissible everywhere.

In their article “The Game of Fame,” Halsey and Pederick take a similar approach in questioning a municipality’s response of erasure and challenging the notion of what should be allowed to exist in the cityscape. They argue it is not only about the image itself, but how and where it is perceived by its audience and the loss associated with the “toned down” censorship that comes with control either in message or location. The authors explore the gains and losses associated with municipal control and limits placed by governing authorities by aesthetics, style and distribution. This was achieved by the creation of the Showground Central Mural (SCM) located in Adelaide, South Australia (Pederick 2010: 83). The wall, which historically had been a notorious spot for graffiti writers was taken out of commission and divvied up and assigned to a handful of writers.

The SCM launched in 2005 with over two hundred and fifty meters of length and six meters in height. The governing body set out to define the term mural stating “It must have a largely pictorial element, it must reflect ‘community mindedness’, it must refrain from overly

political statements, it must be aesthetically ‘pleasing’, it must reflect the historical elements of design, it must be meticulously planned, it must minimize all risk to artists and the public and must fit the environs” (Pedrick 2010: 85). The authors argue, “In short, it must not be graffiti” and ascertains in order for artists to engage in the process, they must present an expression in form, and content opposite of graffiti (p. 87). The wall was divided into thirty-one equally proportioned segments and divided up among various writers- turning a graffiti “hot spot” into an “art spot” (p. 89) by seeking commitment from writers who had written on or around the wall for many years. They argue, “Graffiti is a mode of expression that does not, in affect, care about consent. This is its violence and this is its original means for ensuring that public aesthetic is never entirely planned or mapped out ahead of time” (Pederick 2010: 92). On the other hand, Halsey and Pederick acknowledge that permission works both ways. The SCM wall was allowed to exist and remain un-buffed by the graffiti community while the reality of the SCM allowed the luxury of painting with much more slowness and precision unusual to most writers. The authors go on to argue both sides of the debate of the SCM wall as a graffiti prevention device. First, through its efforts to remove graffiti from the cityscape, the city is in fact generating its appearance only in another location. Included in the research were testimonials about the wall, which echoes the point, “You can stick cameras and you can catch who did it after and you can throw them in jail.... but you can’t actually stop them from doing it in the first place” (Pederick 2010: 94). On the other hand, research shows that a “blank” canvas cries out to be written on and hence the SCM wall deters and creates an alternative. The authors offer up that graffiti is only permitted to exist when it ceases to be itself and argues for a response instead that does not “seek to engage through sanctions, but that recognizes a new ecology of urban

becoming...that makes room for graffiti as neither publicly sanctioned art nor crime” (Halsey and Pederick 2010 97).

Ultimately, as municipalities struggle to control public space they fail to understand and approach street art uniquely. Even as the scholars above examine various solutions and strategies to address markings in the public space, they all forsake the variation in intent, message and location of street art. Even the authors who include and give voice to the artists in their recommendations rarely move past a discussion of wild style and tags to incorporate stencil, mural or wheat pasted street art. In the following chapter, the events of the street art movement in New Orleans present a framework and mindset that would not be managed or entertain the prescriptions laid out by the authors discussed above.

CHAPTER 3: POST KATRINA NEW ORLEANS STREET ART

After Katrina, New Orleans saw increased creative activity in its streets from local artists and prominent national and international street artists. Visiting artists, in particular, brought attention to a street art movement that had developed in New Orleans. The visual battle over public space and in the streets of New Orleans brought to light the challenges cities face nationwide. Local controversies and public conflicts caught local media attention and initiated a citywide discussion on art and graffiti as well as the decision-making procedures currently in place. The discussion that resulted highlights the variety and challenged the stereotypical views of street art.

NoLA Rising and Michael Dingler

NoLa Rising is a post- Katrina public art campaign which encouraged people in all neighborhoods in New Orleans to publicly display works of art, regardless of how simple or untutored, for the purpose of rebuilding and restoring the human spirit in the city (Nola Rising). Its creator Michael “REX” Dingler, upon returning to the city days after Hurricane Katrina, created thousands of hand drawn signs asking for hope, unity and beauty from the citizens of New Orleans.



Photo Credit: Katie Gunnell

He began drawing again as a comfort to himself and in finding personal solace in the artwork; he began to share with the city. “I started putting out the signs around town. The convergence of the two in my head was so palatable: artwork, making me feel better, and the city rising up from all this dead muck that was all around us. If artwork could make me feel better, maybe I can share my artwork and it will make other people feel better. So I started put it up around my neighborhood” (Dingler 2009). As the thousands of signs he had put up began to disappear, he soon realized the signs were not being ripped down, or even blown down by wind as he initially thought, but collected by locals. The drawings, paired with quotes about life and about New Orleans, were in fact impacting people. “The city was so screwed up at that time, you want to give everyone who might want to have a reason to grasp on to New Orleans their reason to, and for me, that was a cool thing to play a role in” (Dingler 2009). Overall, Dingler estimates that he put up over 2,500 of the cardboard hand drawn signs throughout New Orleans. Soon after, he graduated to hand painted signs seeing a need for a more weather resistant and permanent signage. These wooden signs included colorful replacement street name signs that had blown down or been stolen in the aftermath of Hurricane Katrina.



Photo Credit: Katie Gunnell

Michael Dingler also began hosting painting parties, seeing the healing that creativity had brought him and wanting to share it with friends and neighbors.

The Grey Ghost and Operation Clean Sweep

In response, Radtke launched a campaign to paint over NoLa Rising's public art pieces with his infamous grey paint. Fred Radtke is widely known in New Orleans as the "Grey Ghost" as a result of the signature gray primer used to cover up graffiti within New Orleans. He is the president and founder of Operation Clean Sweep, which advocates for graffiti eradication based on the 'Broken Window Theory'. He explains, "The unconscious connection between graffiti and more serious crimes causes property values to decline, stifles business growth and discourages tourism" (Operation Clean Sweep). He believes by responding and removing graffiti within seven days and maintaining the removal for up to one year, he is preventing the ills associated with the graffiti. He also educates the public of the damages of graffiti and believes he has a hand in reducing graffiti citywide therefore providing a better quality of life and reducing crime (Operation Clean Sweep).



Photo Credit: Katie Gunnell

In the aftermath of Hurricane Katrina, Dingler was dismayed at Radtke's desire to destroy something that had meant so much to him personally and to New Orleans' neighborhoods. Dingler began leaving messages for Radtke around town as Radtke's response grew increasingly more frustrated and "nasty" in tone (Dingler 2009). Radtke cited illegal postings by Dingler that warranted the grey buff and believed it was in effect encouraging

graffiti artists to increase their activity around the city. As Dingler pushed back, Radtke turned him into the authorities with several hundred counts of illegal posting, which would result in close to \$55,000 worth of fines. Local news sources covered the feud, which sparked both anti Radtke art in the public space but also a great debate in the city's visual art community as to what could be done to stop the "Grey Ghost".

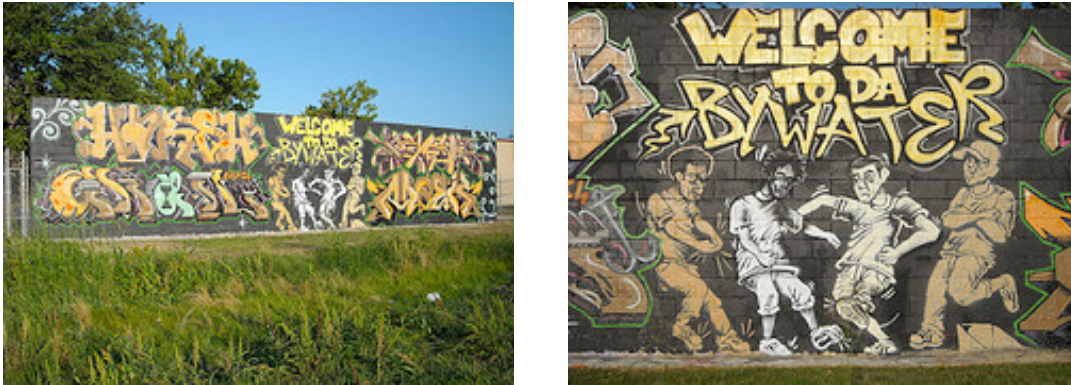


Photo Credit: Katie Gunnell

Rex's grass roots, bottom up approach to replacing street signs as well as his unique style of street art challenged the traditional view of the city's response and governance over street art and public space as well as its citizens' willingness to take a more active role in public discourse about areas of art and vandalism. The initial confrontation between Radtke and Rex was the beginning of the public's interest and brought awareness to Radtke's unchallenged authority over the city's public space.

While some citizens regard him as a resource, fighting to help keep New Orleans beautiful, others consider him a vandal that is only adding to the problem, creating his own style of graffiti. While he claims to only paint over graffiti with the owner's permission, locals routinely contradict his claim and believe that he seldom paints with prior consent. Regardless, the former chief of police, Warren Riley and Mayor Ray Nagin applauded Radtke for his work and claimed he is solely doing what the city would do about graffiti if it had the resources

(Hernandez 2008). Radtke's unattested reign on the city's street art culture was challenged, however, when he was arrested by Military Police for painting over a commissioned mural on Press Street in the Bywater neighborhood in October of 2008.



Press Street Mural. Photo Credit: D MacCash, Times Picayune

The Times Picayune reports that the mural, although sharing characteristics of “renegade” graffiti, the artists did have permission from the property owner for the mural (Hernandez 2008). By comparison, it was reported that Radtke did not consult the owners of the property to inquire about the status of the mural before applying grey primer to its surface. The owner of the building, Michelle Gallodoro, called the police and remarked she had granted permission to a local artist to paint the mural and that it was not her first run in with Radtke; he had trespassed two previous times and defaced the mural. Over the last year, she had also written multiple letters to Operation Clean Sweep explaining the nature of the mural and asking him to stop buffing over the mural. It is important to note that at first, Radtke was detained and transported to the police station where he was then released *without* charge. The 5th district commander later reviewed the incident and Radtke was then issued a summons and charged with criminal damage to property (MacCash 2008).

The police and various politicians have applauded Radtke and Operation Clean Sweep for cleaning up graffiti around the city. Radke has long enjoyed the cooperation of the NOPD,

but in this instance, he had defaced art that was painted with the permission of the wall's owner. Radtke's charge of criminal damage to property was viewed as a victory by many private property owners who have for many years complained about the way in which Radtke operates and the double standard they believe exists. City Business reports that many owners believe he operates as a "vigilante, routinely trespassing on their property to smear gray paint over graffiti on homes and businesses without permission" (Webster 2009). Clayton Nepveux, one of the Press street mural's artist remarked on the situation, "We spend our time and money creating art, something people want and then to have this jerk come and destroy it and then get preferential treatment, it's a kick in the nuts. If I were out there painting on someone's building without permission, I'd be in jail right now" (Dan Witz LA ArtWorks 2010). He goes on to say that graffiti really isn't the issue here. "Graffiti is illicitly painting a surface in a public space"(MacCash 2008). It is important to note the covering of the Press Street mural was the first time Radtke had faced criminal prosecution.

It is this impression of preferential treatment that further blurs the lines of acceptable graffiti and the city of New Orleans' inability to exercise leadership on the matter in a tumultuous post- Katrina environment. The Bywater neighborhood isn't the only neighborhood that struggles to encourage public art and battles Radtke in doing so while becoming increasingly frustrated with the government's inability to take a stance. Robert Wolf, a past President of the Coliseum Square Neighborhood Association expresses this sentiment well. According to Wolf, "The real problem is that the city is not doing anything to stop graffiti, and that has created the need for a person like Fred Radtke. The situation we're running into across the city is that we don't have any real leadership at the top. So a lot of our neighborhoods have to do everything on their own. Fred Radtke is a classic example of city government failure, and he's stepping in to

fill the void. But Radtke is an imperfect solution to a large problem, and businesses and property owners on Magazine Street have complained about his tactics” (Webster 2008). For many citizens, Radtke’s markings are just very boring tags. The grey primer does not always blend in with the original paint color, leaving large blotches and grey squares. The public has asserted that Fred Radtke, since hurricane Katrina has stepped out of bounds and his mission has become part of the scourge he was fighting.

Lack of Municipal Response

The City’s leadership is not willing to take responsibility for Fred Radtke or Operation Clean sweep. City Council-at-large, Jacquelyn Bechtel Clarkson, said the city has never authorized Operation Clean Sweep. “We want graffiti removed but we want it authorized and controlled as to when, where and how he can do it, I know the city would never give Radtke authorization to do any of what he is doing, including going on someone’s private property and he certainly doesn’t have the right to be abusive to anybody, not in this city” (Webster 2008). Yet, on Operation Clean Sweep’s website, The City of New Orleans is listed along with individuals in support and sponsorships. Supporters listed include: then Mayor C. Ray Nagin, New Orleans City Council, New Orleans Police Department, Health Department, Sanitation Department and over 25 Neighborhood Associations, many of which have written letters of appreciation and thanks, most of which are dated 2002-2006 (“Letters of Recognition and Support”). Most community members believe at one time Radtke’s service was appreciated and necessary but has of late become increasingly more vigilant, indiscriminate and disorderly. Robert Wolf reflects, “I believe his intentions are all but the best, and I don’t think he’s looking to do anything negative, but I think the problem for him is that it has become personal. And once

it crossed that line, I think he's had a hard time keeping it in balance and making the right choices in some cases" (Webster 2008).

Local Artists

Many cities struggle to manage violence associated with graffiti and competition amongst writers for space, but in New Orleans there exists a common antagonist for street artists in Fred Radtke. This shared rivalry fashioned a small, tight, rampart against him. Among the artists local to New Orleans, is "Gabe". An academically trained artist, he received his Bachelors in Fine Arts from The Art Institute of Houston in media arts and animation. Gabe mainly paints hip-hop graffiti style murals with spray paint, latex and oil sticks. The Press street mural mentioned in the case study is his work. The murals completed by "Gabe" are considered illegal by the city of New Orleans, as they have bypassed the mural permitting process. However, the productions are often with permission from the property owner and in many cases requested. The pieces put up by "Gabe" differ in their content from traditional throw-ups. The pieces exist as more than just a tag or his name but exhibit his artistic training often featuring New Orleans icons such as tombs and local brand icons. "Gabe" also owns a screen-printing business and works as a freelance graphic designer in New Orleans.

Less is know about local artist HARSH, but his work is no less important. His work straddles an interesting line between that of street art and hip hop graffiti. While his pieces always contain just his name in the form of a traditional stylized hip-hop tag, it references something much more deeply rooted in the experiences of the city and is set apart by his location choices. The world alone produces thoughts of grim, barbarous, rough and unmerciful conditions. There is no coincidence that Harsh began appearing months after hurricane Katrina and the flooding of the city of New Orleans. His messages broadcasted to the city the reality of

the city, one of destruction, strident and disparaging conditions. Where as Rex brought messages of hope, Harsh conveyed the actuality of the city's environment.



Photo Credit: Katie Gunnell

While HARSH nor “Gabe” differ from one another in their visual impact and messages expressed in the city's streets, both fall outside the boundaries of traditional hip hop graffiti. Neither HARSH or “Gabe” are involved in any illegal activity aside from the act of painting itself.

Visiting Artists

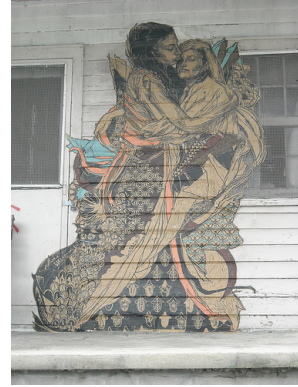
The continued media attention and discourse surrounding the conflict involving Dingler, Radtke, Harsh, “Gabe” and the remainder of the local street art community began to draw national attention from street artists who desired to support the street art community but also New Orleans as a whole. International and national artists with existing relationships in and to the city began making trips and displaying their work in New Orleans. One of those artists, Swoon is an academically trained artist at Pratt University and talks openly about her work and why she chooses the street, passing by opportunities to work within galleries. She works mostly in woodcuts and creates life-size portraits depicting characters and people that she meets in the city as well those already apart of her immediate social circles. She is a legitimate artist by every societal definition: classically trained in a traditional medium, which has found audience and a belonging in the street, she prefers it to the gallery.



Photo Credit: Doug MacCash/ The Times Picayune



Photo Credit: Katie Gunnell



She became involved in the street art movement through her experiences in New York after graduation and venturing into her career as an artist. She discusses her feelings upon entering many of the galleries; a sense of hindrance and stifled creativity was felt and for her the gallery setting seemed to perpetuate an idea of object-hood. She notes it seemed to become more about what was owned and the commodity in the sterile environment of the gallery instead of the expression of the artwork (To Be Seen). She remarks upon walking outside the gallery doors, being plunged into a world that was living, where things were changing and growing. She encountered a life force on the streets that infected her outlook on the art world. “In this world, it becomes more about who the audience is, what will sell, and for how much, rather than what is being said, how its impacting society and the dialog it can create”(To Be Seen). “When you put something on a wall, it is a fairly simple act, but in a way, it declares that this space is now a place where lots of input can be added and you see that effect. You know a tag goes up, then a sticker goes up, and the wall starts to collect things. People call it broken windows theory; that’s not what I call it”(To Be Seen).

Following Swoon, Michael De Feo, academically trained at the school of Visual Arts in New York, made his way to New Orleans (Bio and C.V.). He is most well known for his iconic

flower image, giving him the nickname “the flower guy”. His images are screen-printed then wheat pasted in the same manner as Swoon’s.



Photo Credit: Katie Gunnell

While he has been participating in the street art movement for over sixteen years, his work has also appeared in many galleries and museums throughout the world. While he is globally recognized street artist, featured in many documentaries, workshops and magazines, Michael DeFeo teaches computer graphics and art in a Connecticut high school. His commitment to youth carries over to his personal work. In 2004, De Feo published a children’s book entitled “Alphabet City: Out in the Streets.” The book depicts child like paintings exploring the “concepts of street art spawned by childhood memories” (Alphabet City- Press Release). Each painting depicts a letter of the alphabet, wallpapered on the streets of Manhattan and then photographed.



Photo Credit: Mdefeo.com

Michael De Feo has visited the City of New Orleans on multiple occasions leaving behind both the series of flower prints and also his “underwater series”. The underwater series contains a sequence of silhouettes of scuba divers and marine life. When pasted on the city streets, the forms give the appearance of being submerged. About the series in New Orleans, De Feo remarks, “My decision to continue my "underwater" silhouette series in a city torn to pieces by a hurricane is my way of reintroducing the more positive aspects and relationships we have with water” (Street Art New Orleans, LA – Underwater).



Photo Credit: Mdefeo.com

Another visiting artist, Dan Witz also has a Bachelor of Fine Arts degree. After receiving his degree from Cooper Union in New York City, in 1980, Dan Witz moved to the Lower East Side of Manhattan and to pursue his art career. He began showing in galleries in New York but soon became discontent with the accredited art world and began painting on the street. In 1979, Dan Witz tackled his first large-scale street art project entitled “The Birds of Manhattan”. He painted over 40 hummingbirds in lower Manhattan, each one taking about two hours to paint. Using acrylic paint and very small brushes, he sat, often on the sidewalk to set about making art.



Photo Credit: danwitz.com

Dan Witz attributes much of his evolution as an artist to the New York Police Department. “ A big influence on me is the cops, I have to change my work every few years to accommodate not spending ten years in jail. That has been my biggest influence, it forces me to do something new all the time. Developing new techniques, new styles...If I was still painting hummingbirds, I would be bored and probably in jail” (Dan Witz 2010). Due to possibility of legal action, Witz prepares his pieces in his studio before heading to the public space. They are then glued or plastered on location and then punched with an airbrush to add shadow for visual authenticity. The work completed in New Orleans contained mixed media photographs pasted in existing windows, grates and doors.



Photo Credit: danwitz.com

“I’m trying to exploit our collective tendency towards sleepwalking by inserting outrageous things right out there in plain view that are also practically invisible. My goal is to make obvious in your face art that ninety-nine percent of the people who walk by won’t notice”(Witz).

In August 2008, British street artist Banksy raised the bar and highlighted what local artists were already accomplishing in New Orleans. “I came to New Orleans to do battle with the Gray Ghost, a notorious vigilante who's been systematically painting over any graffiti he can find with the same shade of grey paint since 1997. Consequently he's done more damage to the culture of the city than any category five hurricane could ever hope to achieve”(CasaSugar). Banksy’s pieces also provided commentary to the ongoing saga involving Radtke and Dingler. During his time in the city, Banksy produced multiple pieces containing images of Fred Radtke and his famed gray primer. These pieces called further attention to the lack of response to Radtke and also challenged assumptions about graffiti. Many citizens, knowing the monetary value past pieces done by Banksy were priced at, went to great lengths to protect them, primarily from Fred Radtke.



Photo Credit: Katie Gunnell

Many of the works Banksy completed on his visit in August 2008 in New Orleans appeared in neighborhoods struck the hardest by Hurricane Katrina and on derelict buildings.

Banksy's style is achieved by hand drawing or screen-printing onto sheets of acetate or poster and then cutting out the stencils by hand ahead of time. These stencils are then taken to the intended location and then overlapped, hitting each unique layer with a different color of spray paint. In this layering, he is able to arrive at intricate and detailed images in very little time.



Photo Credit: D MacCash, The Times Picayune



Photo Credit: Katie Gunnell



Much like other street artists have discussed, his innovation was bred by necessity in the avoidance of being caught in the act. The bulk of the process takes place at home in private while the actual painting takes seconds, not minutes out in the public space of the streets.

His Katrina inspired pieces emerged in the city and his creations were appreciated by the residents both because of their aesthetic value and their financial worth but also what they communicated about the city post-Katrina. The trip from Banksy and the community response raises many questions for city officials and citizens alike. Officials face many issues as they decide how to promote public art, control unwanted graffiti and regulate expressive activity. As street art is generally associated with or mistaken for hip hop graffiti and perceived through the lens of the Broken Window Theory, New Orleans can learn a great amount both from the introduction to contrasting styles of street art and also initiatives engineered by other cities that are working to promote public art and control graffiti successfully. The fundamental question

“What is Art?” becomes ever more important as cities determine what to promote, what to discourage, and how to manage the various artistic and public expressions that can be found in the city.

Differing Perspectives

Many opinions have surfaced through the dialog started by the public art battle of Dingler and Radtke and continued with the work created by visiting artists like Banksy, SWOON, DeFeo and Witz. It is important to discuss the ideological differing views surrounding this type of street art. For instance, Dingler finds HARSH's work to be beautiful, distinct and deliberate. He says “You know it’s quite a beautiful thing to look at, its and excellent use of colors. He doesn’t traditionally do an ‘art’ piece, it will always be his name, but it will be a well-done piece, with topnotch paint. When I see a HARSH piece, I go ‘Wow, that is a beautiful, well-done, tight, well put together piece” (Dingler). While Fred Radtke may find it damaging and unsightly (graffiti and its possible gang relationship) Rex appreciates the markings. The city must find a common ground and see the expressions apart from existing frameworks.

Both Radtke and Rex mimic what has been found in the research. Doug MacCash, local art critic for *The Times Picayune* articulates to be, what I believe, a third viewpoint. On HARSH he says, “I never much cared if Radtke grayed over the various tags and doodles hastily sprayed here and there. Not because they were illegal, but because they were self-indulgent and stupid. The big balloon-y signatures and faux primitive drawings that passed for street art in New Orleans weren’t worth defending. Let’s face it. It’s not 1980 anymore. Old school graffiti is old hat. I’m sorry to be the one to tell them, but Harsh, Top Mop and the other nocturnal scribblers are well, boring” (MacCash 2009). In effect, MacCash is saying quite a bit with this statement. He draws a distinct line between “old school” graffiti and what it is that Banksy and Swoon have

created in the city of New Orleans. His words describe a “street art” scene that before the storm was nothing more than “big balloon-y signatures and primitive drawings” and that now, with inspiration both from outside (Swoon, Banksy) and inside (current events, social injustice) the street art scene in New Orleans may just be worth defending, supporting and safeguarding (MacCash 2009).

MacCash spent most of the fall of 2009 covering the controversy of Fred Radtke, exploring the visiting artists work and doing what his job requires of him: critiquing. Throughout the year, Fred Radtke gave both Doug MacCash and the artistic community interactions, which brought up questions of art and space and the governance of them. Radtke denies painting over Banksy's pieces when he visited New Orleans and fails to acknowledge a difference in the work that Banksy generates compared to the tagging he has fought against the last ten years. His inability to unyoke Banksy and Swoon from teenagers and what he believes gang related tagging reflects his ambivalence to considering any of the markings art. In many interviews and television appearances, Fred Radtke speaks of quality of life, the broken windows theory and the appearance of threat that graffiti stands for as well as the current permitting process. It seems for him, it does not matter the expression, if it has not gone through the proper permitting process, it will fall victim to his grey buff. Radtke's logic makes sense in reference to his belief in the Broken Windows theory but under the current permitting and legal parameters set up by the city of New Orleans, he is also circumventing the permit process. This was made clear in the city and public discourse when Fred Radtke was tried and found guilty for the buff of the Press Street mural. It also raises excellent questions about the out of date views the city may hold regarding public displays of art as well as its permitting process. This case study provides an exceptional example of public expressions, by classically trained artists that are deliberate,

and great introspections on the city's current state post Katrina but fall in the realm of illegal activity. The question is then, who should be tasked with disentangling art from vandalism and where should lines be drawn?

CHAPTER 4: ELEMENTS OF STREET ART

There are some unique elements that make up this style of public art. Street art is largely calculated, emotional and poignant to the city's prevalent struggles and successes. As street artists navigate the cultural and legal obstacles to the creation of their work in the public space, the art form incorporates distinct elements. This framework establishes and draws attention to the tensions in cities as populations interpret public art differently. While there is a multitude of motivations and origins of street art, they share some general characteristics. In this chapter, I will present a framework from which to understand and assess the art form. The art form breaks down when these elements are removed, often resulting in the dilution of the intended meaning of the expression. It is in these elements, street art presents a unique art form, demanding understanding and a distinct response.

Permission

The action of asserting opinion and voice without approval or permission is significant to street artists. For the artists, it is assumed that by asking permission, the permission granter is then invited into the process and given control over the message. This action generates censorship of the intended message while the absence of permission creates freedom. Vinnie Ray, a street artist from Brooklyn remarks, "What really inspires me to do this is - I get to do it, no one is going to fuck with me. In the corporate world or anywhere else you just have to do what everyone else tells you (To Be Seen)." It's art in a very pure sense. It's trying to go from your mind, to expressions, to viewership and there is no curator, there is no market value, there is nobody but you and having the balls to go out and do it" (To Be Seen). Within the community of street artists, there exists a disposition that regulation is not part of the art form. Dan Witz remarks during a street art panel discussion, "The deal here is there are no rules. There is no

quality control. There is no right or wrong. So people can kind of do whatever they want, but most artists do have an ethos and its shifting depending on who they are and what they are like” (LA ArtWorks). The visual expression in the street is free of charge for the observer though the price for the street artist can be tremendous. The expression is both undeniably visible and free for the public to experience. The culture of street art completely challenges the traditional artistic structure that is often locked behind doors with gallery hours and ticket prices reserved for bourgeois and upper class patrons.

Affront to the Art World

Street art turns the traditional art world on its head and reflects on the conflict between 'high' and 'low' art. Art in the public space is free and open to the public; anyone can participate and view the work. There is no admission fee; it is in plain view of an entire community, open to criticism, response and experience. It is open to collaboration, to defacement, unprotected and unencumbered by expectation or strict environment. Any building, wall, sign, sidewalk has the ability to become a canvas. Many artists find freedom in the public space, an escape from the confined space of gallery walls. Street art does not require the viewer to spend money, to be apart of “high society” to participate. The viewer encounters the other's thoughts, feelings, angers, frustrations and joys without rules, censorship, or restriction. For many street artists, an unfiltered message, one that isn't politically correct or suppressed before it reaches the eyes of the public is attractive and desired as well as contradicts the established art structure. Many of these expressions turn up in places completely ignored by the majority of citizens.

Claiming Space

The street artists' perceived entitlement to public space also plays an important role. For these artists they are declaring space shared again, not owned by any one person. For many of

the artists, the presence of street art implies that public space is just that, for everyone. They hope to demonstrate that space can and should be for arts sake, space for people's benefit, and space for the welfare of the city's residents. These spaces are extracted from the urban landscape, borrowed and informally put back into public commission without city dollars and urban planners. This sediment is echoed by street artist SWOON, "Every time you take a wall or you take a billboard or a piece of sidewalk, you're kind of saying 'This space does not belong to one person, this space belongs to everyone.' Like for me, it's not about saying this space is mine, it's about saying this space is ours" (To Be Seen).

Street artists differ from traditional graffiti artists in that they are not claiming space for themselves. Many artists talk of claiming space, decommissioning it and making it public again by putting a piece of artwork up in the public space, the street artist claims the space is for a non-commercial, non-authoritative use. "We live in a world, where in marketing, any space certainly any public space and much of the private space which hasn't been transformed into an opportunity for advertisement is called "dead space" (To Be Seen). Tags, messages, expressions and works of art pop up on surfaces that people pass by daily and never take notice, but then there is a word, a picture or declaration that demands attention and for the space to be noticed. This forgotten space without defined function or status within a city's culture is granted expression or voice and commands attention. This provides 'free' space for the establishment of cultural and social expressions. The illegal status allows for free speech and has the ability to create a dialog creating an orchestrated discussion of the issues at stake in a community.

Most urban landscapes are dotted with challenging logos, images and consumer driven advertising. To an extent, the capacity in which a person is allowed to legally leave impact on the public realm is directly related to one's capability to pay for it through the rental or purchase of

space. This encourages the idea that the city and its public arenas are less about the population that lives and moves through them and more about the corporate sponsors and companies who control space. In this reasoning, street art finds itself outside the bounds of accepted expression. In this thread, it becomes just as much about authorship and aesthetics as it is about the removal of offensive and undesirable expressions. It seems that what emerges in neighborhoods and who creates it, plays a considerable role in a neighborhood or civic authority's response. It becomes necessary then to debate the quality of the expression aesthetically and authorship of these permissible expressions in public space. Are not McDonalds, Nike and Sprite corporate taggers? Most municipal bodies draw distinct lines between what is permissible and impermissible without much thought to the differences and similarities of these expressions.

Communication

Art has always been an avenue for those with creative skill to reflect on or express a given emotion, value, an opinion in society. Street art creates the ability within the public space for collaboration among artists as well as with the community as a whole. Expressing meaning to the markings or expressions, they serve as a language and descriptors as a function within a given city or neighborhood. Sites can be transformed by the presence, the assembly of people who are looking at it, the permanence or of these expressions and markings. Each stakeholder, neighborhood residents, city officials and the artists all have prerogatives that impact the space. Graffiti and street art can perform many functions in the urban landscape. It can be viewed as vandalism, the disruption of peace, lifestyle and visual landscape or the enhancement of a neighborhood.

While thoughts are directly communicated, these expressions also stand as bottom- up interventions in public space and can be understood as expressions or intrusions of rights based

on their public nature. It becomes an intrusion on private property, and intrusion on public view, but it may very well be a welcomed intrusion. This intrusion creates an uncertainty of potential space and nourishes a vision of a more experimental culture, one that is more tolerant of ideas and notions outside "normal". On the other hand, the intrusion may create feelings of fear and uncertainty causing panic. Street art denotes a space of uncertainty, spontaneity and public interaction that grants the space a reputation of being uncontrollable. It is this tempestuous nature that creates apprehension in city officials. It is important to define what a city deems normal and favorable expressions. This definition weighs heavily on a culture's perception and produces a work that can function legally and be accepted as artistic expression. This is something that all art forms come up against, but again because of the legal issues, graffiti deals with in a much more public way. It is important to determine the level of legality in dealing with public display and to acknowledge the assumptions about what has the "right" to be represented in public space.

Location

Street art appears on many different types of surfaces, public and private alike. Depending on its environment, and its content, its intention and message the location may change. Whether public or private, the work is deliberate in reaching audience. The culture or events of a particular city may serve as inspiration but the location within a specific neighborhood can play an equally important role on the message and its intended audience. "The original impulse to work on the street was about creating something that functioned within the city but didn't function any other way. You couldn't buy it, you couldn't sell it, and you couldn't own it" (To Be Seen). "Streets are the most public places in any city. Streets are the veins in which the blood of the city flows. Streets function as mirrors of the city. They are places where people put

themselves on display and stores and advertisers present their wares. Streets are curious places of co existence” (To Be Seen).

The locations chosen by most street artists are not random or arbitrary. The places are often chosen relative to the message or image being expressed. Michael De Feo remarks on his choice of locations for most of his work. “Most of us are attracted to building in neighborhoods that are kind of run down. I mean I have a real love affair with peeling paint and broken rusty things. I think my work looks best there” (LA Artworks Panel). Each location holds a different level of risk, a risk that many street artists take in order to complete their work. For artists (street artists included) and any political commentators, the challenge lies not in what type of expression to bring that will open up new possibilities of thought, but how it will be distributed. There must be a strategy to circulate and to find an audience for any art or message. For a traditional artist, the goal is to provide an ongoing presence of not only your work but in a sense your identity that will begin to make an impact and create discourse around the particular artists’ chosen topic. For street artists this platform is the street. Unlike traditional artists, street artists bypass the gallery, the curator, and the market. No longer must artists create work that a gallery will find marketable in order to secure a contract, their message is viewed directly by the public. The street provides a free, open to the public, opportunity to communicate without the pressure of the market. It is not about commerce; instead the writers are in a sense working against capital. There is nothing to be bought or sold or owned. They are creating a moment that is totally free and open to anyone. The work does not have to be purchased or possessed to find worth.” I think as you mature as an (street) artist you start to realize, it helps to make good decisions about where you put up your art. In the case of like the stencils and wheat paste – I think a lot of that stuff is about composition. If you look at Banksy’s work, his work interacts

with the environment- I think he is obviously paying attention to the composition and location” (Gabriel Flores LA Artworks 2010). Rex echoes Gabe’s thoughts on intent. He explains the process of choosing a particular location. “You are also thinking about “what is my intended message” or “what am I doing” and “when people see this how are they going to be affected by it”. So, a lot of times location depends on that” (LA Artworks Panel).

Street art can range from traditional public art such as sculptures and murals to the arguably less legitimate and often illegal act of spray-can and graffiti. As expressions find their way to surfaces, private and public alike, canvas and in museums the prevalence of street art poses multiple questions of the art forms manifestations. Its presence has driven municipalities and legal advisors to rethink laws governing the activity and to better understand the elements which define these expressions.

CHAPTER 5: LEGAL FRAMEWORK GOVERNING SREET ART

When established and traditionally trained artists like Michael De Feo, Dan Witz and Swoon take their "high art" expression and showcase it on the streets the aesthetics of graffiti and its relationship to conventional art practice changes. This raises questions of the works' preservation, removal, deterrence or prosecution. It is a question that the city, as the art form gains popularity and monetary value, must address. While graffiti has been a hugely influential art form on street art, the policy maker and city official are given the task of distinguishing between different types of graffiti and to identify which are of the greatest value to a particular community and which, *if any* should be deterred.

In New Orleans, many of the tactics described by Halsey and Young (2006) have been implemented with little to no success. These models have neither deterred graffiti activity nor supported a successful street art culture. For instance, volunteers, mostly under the organization of Fred Radtke and Operation Clean Sweep, manage the removal model. Currently the execution of graffiti removal bypasses the city council and other city governing agencies completely. As mentioned earlier, this approach has proved problematic, as it has played out in the local artistic culture especially after Hurricane Katrina. It is imperative to point out that the diversity of response within criminalization and deterrence models neglect to acknowledge the diversity in style and motivation behind street art. It also fails to acknowledge the artistic quality that exists and the appreciation and support of the art.

Many policies reduce all graffiti writers and now street artists to gang members and youth deviants. My research confirms that these titles, labels and stereotypes do not apply and cannot begin to accommodate the complexity of the phenomenon in the street art culture. Cities seek

clarity on the expressions found in the public space and realize the urban policy surrounding graffiti can not begin to attend to the work created in street art.

With increased understanding, it becomes possible even necessary for city officials to engage and promote this grassroots art culture. A deeper understanding of graffiti culture should influence the development of response in which the least oppressive effects on the individual writer is achieved by avoiding unnecessary fines and imprisonment. The street art community and the city could both benefit from nurturing creative talent in positive ways and accomplishing satisfying effects for the municipality, considering placement of certain types of street art and the minimized incidence of other types.

A new definition is required. One of the challenges facing cities in streamlining the permitting process is the artists' desire to operate outside the permitting process and city prescribed protocol. Swoon remarks, "I am hoping that through these actions to create a public domain, a visual, physical public domain. Where, whether you want to draw a flower or to write "Fuck Bush" or whatever the hell you want to write, you can. To me, its really important in this time of media domination to close down these circuits of communication among people we sort of fight, and to open those spaces (to free and open thoughts) (To Be Seen).

While there are legal restrictions and statutes that address graffiti and its appearance and creation in our cities, I would question their applicability to the current street art culture and their ability to promote "positive" graffiti. In this chapter current laws and ordinances governing both mural creations, street art and graffiti will be explored. It will also be important to explore what other cities are doing to both combat and encourage street art in their communities. This will establish a starting point and best practices for New Orleans moving forward.

Laws Governing Graffiti Cover Street Art

For those artists who chose to forgo the permitting process and create work without permission risk penalty under state law and/or city ordinance. First, it is important to define the state's definition of defacement. R.S.14:59 of the LA statutes defines deface as:

1. To mar or destroy (a written instrument, signature, or inscription by obliteration, erasure, or super inscription)
2. To detract from the value of (a coin) by punching, clipping, cutting or shaving.
3. To mar or injure (a building, monument, or other structure)

State law finds graffiti (and also street art) under criminal damage to property and is defined as such:

“Placing graffiti upon immovable or movable property, whether publicly or privately owned, without the consent of the owner, by means of the use of spray paint, ink, marking pens containing non-water soluble fluid, brushes, applicators or any other materials for marking, scratching or etching. “Graffiti” includes but is not limited to any sign, inscription, design, drawing, diagram, etching, sketch, symbol, lettering, name, or marking placed upon immovable or moveable property in such a manner and in such a locations as to deface the property and be visible to the general public”(R.S. 14:59).

Therefore, under state law, a mural or expression of any type completed with permission is not subject to the punishment provided by the law below:

“Whoever commits the crime of criminal mischief shall be fined not more than five hundred dollars, or be imprisoned for not more than six months in the parish jail, or both”(R.S. 14:59).

At the municipal level however, M.C. 134-36-85 outlines the permitting process for signs including mural projects (Ordinance number 021916) and their enforcement, penalties and violations. In accordance with this law, the department of Safety and Permits not only issues the permits but also ensures that all signs, murals and expressions comply with the chapters in the code and all other applicable laws by inspection (Sec 134-37). The New Orleans Police Department conducts inspections and has the power to inspect any sign in which a permit is

required at any point: the point of manufacture, when the mural is up for renewal or when found in need of repair (134-38 (1)). The department has the authority to issue a stop-work order and revoke any permit issued after conducting a hearing to determine if the sign is being executed contrary to the submitted plan or in an unsafe manner (134-38 (2-4)). If found guilty, violators are charged with a misdemeanor and punished by a fine “of not less that \$500.00 for each violation” and each day the violation occurs is regarded as a separate offense. The code also outlines the action of the city attorney’s authorization to take legal and equitable action to insure compliance (Sec 134 -39). Any “sign” that has circumvented the permitting process is deemed “unlawful”. This is the case with “any sign (including mural projects) that is installed, erected, constructed or maintained in violation of any of the terms of the chapter or other applicable law”. The department of Safety and Permits will then give written notice ordering to alter the sign to comply with the law or remove the sign (134-42(c)).

Section 54-151 of the municipal code discusses criminal damage to property echoing the State of Louisiana’s law. This section covers the definitions, offenses, removal and penalties for both writers/artists and property owners. Both graffiti and gum labels are defined in the New Orleans Municipal Code:

- (1) Any sign, inscription, design, drawing, diagram, etching, sketch, symbol, lettering, name or marking which is scratched, painted or sprayed on to any surface, regardless of the material of that structural component, in such a location and in such a manner as to deface the property
- (2) Any sheet of paper, fabric, plastic or other substance with an adhesive backing which is not easily removable when placed on a surface. (54-151a).

Violations of the code include:

- a. Placing graffiti or gum labels upon real or personal property, whether publically or privately owned, without the consent of the owner.

- b. Possession, with the intent to use in violation of this section, any graffiti instrument.
(54-151b)

Any person who violates the code concerning graffiti can be charged with a misdemeanor, which is punishable by municipal court as follows in the code:

- a. A fine of not less than \$100.00 or no more than \$500.00.
- b. Community service for the cleaning and restoration of property
- c. Financial restitution to the property owner to cover necessary costs to restoring defaced property.
- d. Imprisonment can also be ordered in addition to the above penalties at the courts discretion for no more than 3 months. Repeat offenders may be imprisoned up to 6 months (Ammendment19086).

The code also requires property owners to remove graffiti within 30 days of receiving notice from the city. If the markings are not removed, the city then issues a notice of administrative hearing or a summons for the owner to appear in municipal court to give good cause as to why the graffiti was not removed. If no good cause is given and the markings are not removed, then a fine may be levied against the owner.

The current legal parameters in New Orleans do little to encourage public displays of art, murals or otherwise even within the current legal restrictions. Many cities throughout the United States maintain a vibrant public art culture but often fail to include or address their street art culture in the same way. However there are a few cities that manage graffiti, fortify their street art culture and create thriving public art throughout their city. New Orleans is a city of diverse and vibrant neighborhoods and a city that could benefit from city supported visual artistic expression.

First Amendment

It is also important to note that The First Amendment forbids the government to regulate speech in such a way to favor some viewpoints or ideas at the expense of others. Governmental regulations governing speech activities must be content neutral. The New Orleans City

Council's current permitting contains a clear step in the process that judges a proposed mural based on the rendering. It is in this stage of the permitting exercise, opinions based on content, artistic ability or bias may be interjected.

The First Amendment to the U.S. Constitution guarantees freedom of religion, freedom of expression (including speech, press, assembly, association, and belief), and freedom to petition the government for a redress of grievances (The Constitution of the United States, Amendment 1). The First Amendment protects the freedom of expression from government interference. The word "speech" in the First Amendment has been extended to a generous sense of "expression" -- verbal, non-verbal, visual, symbolic and forms of artistic expression protected under the First Amendment which have been recognized by the U.S. Supreme Court include: painting, music, poetry, motion pictures, dramatic works, radio and television entertainment, drawings, and engravings (NEA v. Finley, 1998). While originally this only applied to The United States Congress, it now applies to each state government as well as local governments. This amendment protects the communication of ideas and grants freedom to express them publicly without government interference except under very specific circumstances. This allows any sort of publication, verbal or otherwise, the freedom to be a vehicle of information and opinion. The First Amendment as inferred by the constitution, eliminates the government's ability to make a distinction based on content. A strategically placed scribble can convey a political message as strongly as a commissioned masterpiece. An artist's First Amendment rights protects the speech and prevents local government from censoring the message or judging work based on content.

As an example, Neighborhood Enterprises Inc. sued the City of St. Louis for the denial of a sign (mural) permit application alleging free speech under 42 U.S.C.S. § 1983. The property

owners were denied a permit for a mural, which protested St. Louis' use of eminent domain. The city argues that the decision to reject the application was made based on zoning ordinances, not content. Neighborhood Enterprises Inc asserted that the decision by the city of St. Louis was illegal because the governing board utilized an over simplified and unconstitutional zoning code to limit their first amendment rights.

The municipality claimed "The wall face of the building on which the sign has been painted does not have street frontage which defined in the Zoning Code, is required for signage to be authorized in the 'D' zoning district. Also, according to the code, the maximum allowable square footage for any sign within this district is 30 sq. ft. The sign/mural created by Neighborhood Enterprises was approximately 363 sq. ft. These reasons were given for the refusal of the permit, not the content or speech expressed in the mural/sign" (Neighborhood Enterprises, Inc v. City of St. Louis 2008). The courts found that Neighborhood Enterprises Inc allegations that the municipality had violated their constitutional rights to free speech and due process were correct and recommended the case return to a lower court for further consideration.

Another case involved a fashion company, Ecko, and their plan to organize an outdoor graffiti art exhibit where graffiti would be painted on mock subway cars. The suit was filed against the Mayor of New York City, Michael Bloomberg who pulled the permit on the basis of the belief that the action would encourage criminal behavior. The suit was filed in the hopes of precipitating the re-issue the permit, which was previously sanctioned by the city. The issue in questions is whether or not the city can lawfully dictate a public art exhibition based on the fact its "canvas" are mock subway cars – lending itself to the censorship of the expression only on the basis of inciting violence and vandalism. The court restored the original permit stating the planned activity as a display of artistic expression and noted that the denial of the permit on the grounds of stimulating violence and additional graffiti was an obvious violation of the First Amendment. (Ecko Complex LLC v. Michael R. Bloomberg 2005).

Copyright, Ownership and Intellectual Property

While the above-mentioned laws govern graffiti production and street art, there also exist laws that protect the work once completed. Issues of copyright, First Amendment rights, ownership and intellectual property rights have been tried in the courts and have found success for artists. It is important to explore issues of copyright ownership and intellectual property rights as it pertains to graffiti and street art. First, copyright applies to street art and graffiti the same way as it does in the traditional art world. Artists own the copyright of the work regardless of its location, but licensing photographs of the work is more complex (Morgan 2006).

Copyright is a self-activating and applied to a work of art whether or not the artists asserts their rights. Copyright applies to any “original work of authorship” that is “fixed in any tangible medium of expression” (The Constitution of the United States Amendment 1). Copyright protection automatically extends to any qualifying work, whether published or not and whether created in the United States or abroad. This right provides its owner the right to reproduce the work, to distribute copies of the work and to make derivative works. Infringement occurs when someone other than the copyright owner exercises any of the above-mentioned rights.

While street art often operates in the illegal realm, the artists have copyright to their work. Even though the artist may be arrested for completing the work, the expression may not be copied or reproduced without permission. Many experienced and smart graffiti artists have made sure to claim copyright by placing the universal symbol, their name and date of creation within their pieces. General perception would assume permission from the artists need not be obtained because of the illegal nature of street art or that copyright would not cover these types of expression. The request for permission to use the work becomes difficult as many artists who

work in the street are anonymous, paint illegally or are not well known enough to be recognized. Street artists tend to be more well-known but just as difficult to contact.

Street artists possess the moral rights to their work just as traditional gallery artists. These rights under VARA include attribution of authorship, right not to have authorship of a work falsely attributed, and right of integrity of authorship of work. These rights are rarely exercised in illegal, unsanctioned work, as claiming them would open the street artists up to criminal charges and penalties. Therefore the removal or destruction of an expression is an infringement of the artists' moral rights of integrity in the work and the infringer would be required to give the artist notice of the removal or in the mural board review process, destruction- offering the artists access to record the work. However, if the work is illegally executed, the artist forfeits their rights. If the artist were to exercise their rights they would expose themselves to criminal prosecution and penalty.

For instance, the city of New York removed artwork from a condominium complex in Soho when it demolished a wall. The condo board filed damages against the city and obtained two decisions (1) the ownership of the artwork, and (2) if the removal of the artwork would be deemed destruction under VARA. The court decided that the ownership was placed on the holder the title owner of the building but that the board did not own the artwork for the taking purpose but any removal of the artwork, the building owner should be compensated. The judgment was granted in favor of the board against the city (*Board of Managers of SoHo International Arts Condominium v. City of New York, NY, 2005*).

Unrelated to moral rights, when used commercially, graffiti must be legally licensed like any other art form regardless of its legal standing. This applies in its use in movies, television, and digital media. While the copyright of the image of the image resides with the photographer,

the expression within the image resides with the artist. The Tats Cru and a dozen other street artists whose work don the walls of buildings all over New York City sued the author, publisher and exhibitor of a book about urban murals in New York City that includes photographs of their work. The suit is built upon the expropriation by the public display of their work, rooted in a culture of communal ownership of public space, which they believe has infringed upon their property rights. The author, publisher and exhibitor Peter Rosenstein, undertook the effort to document the various works in a book and to later display the photos of the work at a Chelsea gallery. Rosenstein claims that the artists were unidentifiable or unreachable at the time of his research. The Tat Cru claimed that much of their work is clearly marked with copyright symbols and are upset over the poor quality of photographs depicting their work and the inclusion of misinformed commentary leading to a problem of integrity of authorship.

Public display of artists' work does not negate the commercial rights to the property and the artists were granted royalties from the published work of Mr. Rosenstein. Public artists, both street art and graffiti muralists expose themselves to criminal and civil liabilities and ultimately undermine their legitimate rights to copyright and moral right protection when the work is created illegally. The prevalence of this style of spray paint and gum label street art as well as its intrusion into the gallery world creates an interesting mix of illegal and legal manifestation of the same art form, increased notoriety by artists like Banksy, SWOON, DeFeo and Witz has forced municipalities and legal advisors to revisit laws governing street art and graffiti.

CHAPTER 6: RECOMMENDATIONS FOR FURTHER RESEARCH

Street art is not a form of expression that will recede from public view, nor will artists magically lose the desire to paint on property that does not belong to them. Through my research, best practices arise that encourage both the understanding and cultivation of partnership amongst cities and artists. By understanding the artists' motivations, location choices, and messages, municipalities can begin to develop a sound strategy. As perceptions change, the harsh criminalization of artists will become less imperative. Municipalities should examine current practices in graffiti deterrence and draw distinctions in both form and function from street art. Because of the diversity within public expression, a single strategy will prove to be insufficient in achieving the desired visual change in the city and public space.

Both the local artists and visiting artists and their experiences in New Orleans raise questions and reveal issues that cities must face as they decide how to promote public art, control unwanted graffiti and regulate expressive activity. The question, "What is Art?" becomes important as cities grapple with what to promote, discourage and how to manage public, artistic expression. City officials can proactively engage and promote this grassroots culture. A deeper understanding of graffiti culture might influence responses so they have the less oppressive effects on the individual artists and instead nurture creative talent in positive ways. New Orleans has a complex fabric of creativity and artists that contribute to the public space, and this research revealed a small, close-knit community of middle-aged males and females orchestrating public displays of art in New Orleans.

Creative environments spring up in the temporary lack of planning, uneasy moments in a city's life. For New Orleans, that moment happened within the aftermath and following months of hurricane Katrina. Street art creates a complex sphere of communication in the public realm;

the transmission of ideas, both to the public and amongst themselves are worth noticing and at times, worth protecting. The public nature of the work creates access that is equal, and unlike traditional art, the creativity lacks the critical need for economic return.

There exists a fundamental tension in the desires of street artist and the municipalities that strive to govern their activity. In discussing policy recommendations for cities and approaching a balance of existence between street artists and the city, it is important to define 'success' for both sides. For the city officials including the mural review board, and law enforcement, this success would be defined by a lack of expression or expression only in the form deemed appropriate, visible in predetermined locations and with only certain pre-approved messages. This “success” would also leverage the expressions to serve the city fiscally, creating revenue either by the permitting process or utilizing the exhibition to create cultural districts both drawing tourism dollars and revitalizing neighborhoods.

Success for the street artist involves writing where they want and what they want, how they want while expressing themselves in the public realm. They desire the same creative liberties and rights afforded to traditional artists in the creative process only in the public space. As mentioned in the framework earlier, it is an element that is fundamental to the writing. I will press the point that I believe there can be some mutual success found in the overlap of revitalization. It is not in the intention of artists to seek destruction of urban space and neighborhoods but instead they see it as a move towards restoration.

The art form would have to change its foundation considerably in order to become what city officials desire it to be. In the same notion, the city would have to bend into major compromises in order for the street artists to feel like it had reached any level of success. The challenge is inherent to the tension that exists in each sides desire for the city and public space.

There are many avenues a city can pursue to cut down on the amount of graffiti within their municipality, none of which provide an opportunity for street art to thrive. Street art should not be looked at as a problem to be solved, but it may prove more useful to understand the motivation and think of other implications in society for the research. Due to the illegal nature of the art form, many of the planning tactics usually utilized in graffiti deterrence such as forums, negotiations, public hearings and legal walls do not translate to street art. I would argue that cities have neglected to understand street art before trying to "deal" with it. To employ an urban program to encourage approved street art would be faced with countless obstacles, difficulty and run counter intuitive to the elements and framework that make up the art form. I believe with increased understanding it becomes possible, even necessary for city officials to engage and promote this grassroots culture. Current understanding fails to recognize the entire spectrum from Harsh to Banksy which proves difficult for a city and criminal justice advocates to not only classify but show sound judgment in what should be eradicated, granted permits or allowed to stay without permitting.

There are no broad prescriptions or strategies can accommodate all particularities of the local experience, however some policies could be adapted. For New Orleans, a mural arts program modeled after Philadelphia Pennsylvania could begin to promote a healthy relationship with public art. Legal walls could give space for expression. A streamlined and potentially free permitting process would also go a long way to foster and encourage a healthy street art culture in the city.

Philadelphia Pennsylvania Mural Arts Program

A mural arts program much like the one modeled in Philadelphia Pennsylvania would begin to create a healthy relationship with public art in New Orleans. Partnering community

collaborators and small businesses with local artists, and coordinating with existing strategies for community development, the city could leverage grassroots social capital to build positive momentum for communities and economic development. This program could also bring stronger results in terms of graffiti and street art located in New Orleans' neighborhoods. Research has shown the opportunity for cultural expressions in public space to become catalysts in communities for other improvements including the reclamation of abandoned lots, renewed civic engagement, safer streets, and bolstered neighborhood pride.

Jane Golden created the Mural Arts Program in Philadelphia, Pennsylvania in 1984 as a component of the Philadelphia Anti-Graffiti Network. She saw the program as an impetus for tangible social change and a program that could be replicated across the country. One difference in Golden's strategy was that she was insider, and artist herself and plugged into the graffiti culture in the city. Hired by former Mayor of Philadelphia, she was able to influence many of the local graffiti writers to channel their perceived destructive energies into more socially acceptable and creative mural creation. While the community and government officials of Philadelphia embrace the expressions wholly, the issues of permission and in turn censorship still linger in the minds of the artists.

The murals began to transform neighborhoods, suffering from years of disinvestment and adversity. Today, Philadelphia's Mural Arts Program has become an eminent blend of city agency and non-profit creating inventive public art partnering with various non-profits, community stakeholders, and schools. Since its creation, the Mural Arts Program has created over three thousand murals and instituted art education and workforce development programs citywide. The Mural Arts Program works with over 100 communities yearly across the city and partners with a variety of local organizations and city agencies. Projects are executed in

conjunction with existing community development strategies and “leverage grassroots social capital to build positive momentum for stronger results” within neighborhoods (website: Mural Arts Program: Community Murals).

Philadelphia has even begun to partner with nationally known street artists, bringing their creativity and craft to the streets of their city. Renowned street artist, Shepard Fairey, a Los Angeles-based artist and illustrator who is best known for his OBEY sticker campaign featuring “Andre The Giant” as well as the “HOPE” poster of then Senator Barack Obama which had an immense significance on the 2008 presidential election, traveled to Philadelphia in April of 2010 to complete a series of wheat paste murals with permission from both the city of Philadelphia and aided by the Mural Arts Program Corp Members. A program of this type in New Orleans would celebrate and sanction the work of those artists who recently executed work in the city illegally. Creative endeavors by Banksy, Swoon, DeFeo and Witz could be achieved on a larger scale collaborating with New Orleans local artist community and creating a public art culture reputable in an already rich creative tradition.

Legal Walls: United Artist Front

Another opportunity would be to create a legal space on the levee walls around the city in the form of a grant program. A project modeled after the SCM wall could prove relatively successful in setting up a public space where the artists know their work will be seen. This would involve sectioning off and assigning portions of the levee wall to individual artists to take ownership. Michael Dingler has mounted a similar project titled The United Artist Front. In a press release, Dingler remarks on the importance of the wall “to remember our collective struggle as a city, to re-assert our position as a city of the arts, and to honor those who we lost in the storm” (NoLA Rising). The project sought and received support from the New Orleans Levee

Board to turn the rebuilt Lower Ninth Ward Levee Wall into a continuous 3,900 foot long mural totaling approximately 46,800 square feet of art space with 65 local artists each painting 720 square feet of their tribute in 2009. NoLA Rising is now establishing relationships with local leaders to insure the project's existence and success. While this wall would not necessarily deter graffiti/street art in other areas of the city, it would in fact provide a constructive space for artists to work without fear of legal prosecution. This wall has the ability to foster great creative capital as well as promote a healthy understanding in the community of public art.

Streamlined Permitting Process

The permitting process is complicated, expensive and time intensive. To initiate an application for a public mural, whether on public or private property, within the city limits, an artist must first submit extensive information to the Mural Review Board (MC Section 134-1). The Mural Review Board is made up of city council members and community members, and has included Fred Radtke. An architectural drawing or a computer generated color rendering of the proposed mural in its exact location along with dimensions, color scheme and how it will be attached to the designated structure. This is to be accompanied by a list of materials and technical specifications defining the mural's weather resistance and endurance over time. The installation process must be specified as well as the appropriate removal process identified. The proof of lease and authorization by the property owner must also be presented in writing. All of this material is then sent for a site plan review at the City Planning Commission.

Fees associated with the permitting process create a barrier to entry for most artists and property owners. A one-time fee of five hundred dollars is attached to the permit application. Another two hundred and fifty dollars is charged if the mural is to be located in an historic district and if approved, the mural permit must be renewed yearly which costs an additional fifty

dollars a year. In each stage of the permitting process, a detailed project specification is to be provided. Approval must be sought by the design review staff at the city planning commission, the historic district landmark commission and as well as any other organization deemed appropriate by the board for review. If all levels of jurisdiction have approved the site plan, the recommendation is then sent to the Mural Review Board for a final decision.

In 2009, this Mural Review Board is made up of City Council members Arnie Fielkow, Cynthia Willard-Lewis, Cynthia Hedge-Morrell and Stacy Head as an alternate. Upon approval, the applicant is issued a permit for the mural for one year. At this time, the applicant must also provide liability insurance with stated coverage of the proposed mural as well as a solvent bond of five thousand dollars or fifty thousand dollars is required if the mural is to be hand painted, before the issuance of a permit. This bond is used for the removal of a mural if the permit granted has expired for more than thirty days and there has been no renewal or new permit filed for the location by the Murals Review Board. The Department of Safety and Permits is authorized to use the proceeds of the bond to remove the mural and restore the surface of the site to its original state. The renewal process is slightly less intensive and does not require additional design review procedures if no changes have been made. The department of safety and permits however will inspect the mural for signs of deterioration or erosion that would require restoration. Proof of the continued lease and authorization from the property owner are required at this time as well as continued liability coverage for the mural.

By requiring architectural drawings and color renderings the process both provides a rigid approach to creativity as well as a process that judges the content and artistic merit of the mural. These are aspects that the city council members and permitting officers are not be trained to evaluate. The solvent bond amounts of five thousand dollars and fifty thousand dollars for hand

painted murals are excessive and leave the process out of reach financially for most artists. The requirements required by this rigorous and meticulous process deter both street artists and local artists alike from completing the permitting process leaving the city with the obvious predicament of illegal murals. Some artist would conform to the permitting process if it were more straightforward and undemanding exercise however, the research shows, for many of the artists who choose the street as their canvas; it is the element of claiming space without permission that drives their expressions. The current permitting process in the city of New Orleans for murals further exacerbates the street art conflict and impedes the creation and display of legal public art by local street artists. The current system more than discourages artists from seeking the city's permission.

One option for streamlining the city's permitting process would be to remove many of the requirements for murals that are to be completed on private property. Artists should still be required to prove proof of permission from the property owner as with the current process, but both financial and aesthetic decisions should rest with the property owner. This would remove the need for then expensive insurance bond and remove the content-based evaluation from the mural review board, placing the review and critique on the property owner. The property owner would then discern what they feel comfortable adorning their property and the measure by which it is applied. Property owners would be held responsible by the city for the condition of the mural and that it maintains visual integrity, in the same manner as the general upkeep of the property in regards to grass cutting and structural integrity.

Final Thoughts

Addressing street art through either the crime prevention perspective or as a youth phenomenon perpetuates outdated assumptions. While these policy recommendations can be

considered, it is important to dialog and understand a particular city, its people, its amenities, its opportunities, its history and its capacities, in order to understand street culture. New Orleans would be better served to understand who is executing street art and what they are communicating rather than to employ tactics to deter, remove and punish its creators based on stereotypes. While a fundamental tension will exist between street artists and the city, a dialog can lessen the anxiety and apprehension felt about public art and expression. As cities negotiate what people want, the artists, community groups and residents, they may begin to rely on negotiations rather than enforcement. In this exchange, city officials may see street art is worth cultivating and an agent for restoration.

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