



Loss Control TIPS

Technical Information Paper Series

Innovative Safety and Health SolutionsSM

Traffic Sign Vandalism: A Significant Municipal Liability Exposure

Introduction

In February 1996, a white Camaro collided with an eight-ton truck loaded with phosphate at a rural intersection in Florida. Three teenagers died in the collision. The stop sign that controlled the intersection had been vandalized, having been pulled out of the ground and placed, face down, by the side of the road. Two men and a woman, barely in their twenties, who had allegedly removed the sign, were caught and charged with manslaughter.¹

In March 1999, a 58-year-old man was killed near his home in northwest San Antonio, TX. He had been waiting at a bus stop when two cars collided at an intersection. One car spun out of control, then hit and killed him. Police say someone removed a stop sign that was supposed to control traffic at the intersection.²

These are extreme cases, but even when there is no injury or loss of life, vandalism of traffic signs costs communities large amounts of money. The city of Ames, Iowa spends about \$12,000 a year to address sign vandalism.³ Vandalism to signs and signals in Clackamas County, Oregon costs taxpayers there about \$100,000 annually.⁴ The Federal Highway Administration estimates that one out of ten traffic signs must be replaced each year because of vandalism. The cost of traffic sign vandalism in the U.S. is estimated at \$100 million to \$2 billion a year.⁵ Obviously, this is not a small problem. Given the seriousness of the incidents described above, this is not simply a case of childish pranks.

Liability Concerns

Cities, counties, towns, and villages are extremely concerned about this issue. Dealing with sign vandalism consumes a significant amount of public entities' budgets, and, in cases such as those described above, even takes lives. Additionally, public entities are concerned about potential liability costs. The concern is that once the public entity has installed a particular traffic control device, it usually has a duty to maintain it. Therefore, for example, if someone vandalizes a stop sign by removing it, the public entity has a duty to discover the missing sign and to take appropriate action to replace it or otherwise warn the public of the hazard.



However, some communities have hundreds or even thousands of traffic signs. The ability to know when a sign has been vandalized is problematic, especially for smaller public entities that have limited resources, or for communities which are responsible for a large number of signs. Because of this, the possibility is very real that a traffic sign could be stolen or vandalized and the public entity may not be aware of it. Should an accident occur as a result of the missing or damaged sign, the entity could be liable. (This is true even in jurisdictions that have enacted immunity laws to shield the public entity.)

An example is a recent case in Illinois, in which the Plaintiff drove her automobile through a rural “T” intersection and into a ditch.⁶ The plaintiff filed a complaint alleging that her injuries resulted from defendants’ failure to maintain the intersection in a reasonably safe condition. Specifically, the plaintiff alleged that the intersection became unreasonably dangerous because a stop sign erected by the defendants had been removed by persons unknown and had not been replaced. The defendants moved to dismiss the complaint, contending that they were shielded from liability under specified sections of the Local Governmental and Governmental Employee Tort Immunity Act.

In her complaint, the plaintiff alleged that the defendants breached the following duties:

1. They failed to exercise ordinary care to maintain the intersection
2. They failed to have a reasonable inspection system of signs and traffic control devices
3. They failed to maintain the stop sign in a legible manner
4. They failed to discover that the sign was missing
5. They failed to replace the stop sign
6. They failed to erect the stop sign in such a manner to make its removal by vandals or acts of nature unlikely
7. They failed to warn plaintiff of the dangerous condition caused by the missing sign by posting barricades or other traffic control devices

The complaint contained two counts against each defendant, one premised on negligence, the other premised on willful and wanton misconduct.

As their defense, the defendants relied on the Immunity Act. The trial court found that the Act afforded the defendants immunity, and it dismissed the complaint. However, the appellate court found otherwise and reversed and remanded. The appellate court noted that not all common law duties are abrogated by the Act. The Act codifies the common law duty of local public entities to maintain their property in reasonably safe condition. The common law duty to maintain did not extend to creating or erecting public improvements; however, once having undertaken the construction of public highways and traffic control devices, public entities have a duty to install and maintain them with reasonable care.

The court also made the distinction between discretionary duties, the negligent performance of which does not subject a government entity to tort liability; and ministerial duties, the negligent performance of which can subject a municipality to tort liability. In this case, the court stated that, where the sign has fallen into disrepair (e.g., because of vandalism), discretionary immunity did not apply. In other words, the entity did not exercise its discretion in removing the stop sign; it was removed by someone else. Additionally, the court reasoned that even though the entity had no duty to erect a stop sign, it could be held liable for inadequate maintenance of that sign. Once the government body decided to provide the sign, it had a duty to install and maintain it in a reasonably safe condition.

How Traffic Signs Are Vandalized

In its *Traffic Signing Handbook*, the Institute of Transportation Engineers lists three classifications of sign vandalism:⁷

1. *Destruction*. Destruction occurs when the sign assembly (sign and/or support) is physically destroyed or damaged to the extent that it no longer serves its intended purpose. Examples of destruction are gunshot by pistol, rifle, or shotgun; thrown missiles, such as, rocks, bottles, and bricks; sign or support burning; sign bending; and deliberate sign and support knockdown.
2. *Mutilation*. Sign mutilation occurs when the sign installation is altered or defaced in a manner that renders the sign unreadable or reduces nighttime reflectivity. Examples of mutilation include spray painting; brush painting; applying unauthorized stickers or decals; contaminating by caustic substances (e.g., eggs, tomatoes, pumpkins); altering the sign legend (e.g., with crayon, lipstick, ink markers); and graffiti.
3. *Theft*. Theft is the unauthorized removal of a sign assembly or any of its component parts. Reasons for theft include home decoration; relationship of the sign legend to a person's name; relationship of a sign legend to an individual's interests (e.g., name of a musical group, automobile, television/movie personality); scrap value of aluminum or other metal; firewood; and uniqueness of the sign legend. Sign theft has been estimated to account for more than one third of all sign vandalism.

What the Public Entity Can Do

The public entity can do a number of things to control the liability exposure. In particular, the public entity should: 1) Make an inventory of all traffic signs and traffic control devices, and 2) Employ reasonable sign vandalism countermeasures.

Conduct an Inventory

Before the public entity can determine the extent of the problem, it must conduct an accurate inventory of the signs and traffic control devices for which it is responsible. The inventory should note the exact location of each sign or control device, as well as its type, size, location, and reflectivity. A log should be developed to track when specific signs or control devices are repaired, replaced, or removed. When signs are repaired, the log should be annotated to indicate what repairs were made, who made them, and when the repairs were completed.

Periodically, the public entity should analyze this data to identify trends and to gain understanding of the problem. Where repeat problems are identified, the entity should develop specific strategies to address them (see information on countermeasures, below). Resources for sign inventory database programs include:⁸

University of Florida, McTrans, 1-800-226-1013 or <http://mctrans.ce.ufl.edu/>

Kansas University, PC-Trans, 785-864-5655
FHWA, Sign Management System 4.1
Dan Turner, 703-285-2423

University of New Hampshire/FHWA,
Windows-based program, David Fluharty,
603-862-4348 or www.hend.com/pws.

Vandalism Countermeasures

The *Traffic Signing Handbook* lists a number of countermeasures that the public entity may employ to reduce the sign vandalism problem. The *Handbook* states the following:

“Use of countermeasures should be part of a systematic approach to vandalism reduction that consists of identifying the problem, selecting cost-effective countermeasures in response to the problems and evaluating the effectiveness of the countermeasures following implementation. Such a systematic approach to sign vandalism has been developed by the FHWA.”⁹

The *Traffic Signing Handbook* lists the following general categories of countermeasures:

- Sign Construction And Installation
- Sign Repair and Maintenance
- Sign Ownership Identification
- Enforcement Measures
- Legislative Improvements
- Public Information and Education

Sign Construction and Installation

This countermeasure involves using products and installation techniques intended to prevent sign vandalism by reducing the opportunity for vandalism or minimizing the adverse effects of vandalism. Some of these techniques include:

- Sign assembly reduction – Removing unnecessary signs, co-mounting needed signs, and maximizing the use of utility poles.
- Substrate materials – Fabricating traffic signs using substrate materials less susceptible to specific types of vandalism. Use of thicker gauge sign blanks, less expensive substrate materials, plywood substrate, and other non-metallic substrates (plywood has been shown to be significantly more resistant to gunfire damage than aluminum substrate).
- Sign face treatments – Applying protective coatings to sign faces to ease the removal of contaminants and to extend the useful life of the sign. Some sign face types can be protected (to a degree) by applying clear coatings and film overlays.
- Sign supports – Using sign support systems that resist vandalism or that can be replaced in a timely and economical manner. The use of breakaway, yielding, and flexible sign supports has increased in recent years because of lower maintenance costs and the reduced risk of serious injury in accidents.
- Sign support and mounting techniques – Includes using special installation techniques and hardware to reduce the opportunity for vandalism.
 - Sign installation techniques – increased sign height; increased distance of sign from roadway; use of double signs and battens; addition of suffixes, such as, St., Dr., Ave., and Ct., to legends; and directly mounting street name signs to square tubing supports, as opposed to round supports with sign braces.
 - Support installation techniques – generally consist of measures to prevent sign support twisting or removal and include the use of anti-twist devices, post drivers (as opposed to drilling), double supports, and theft-resistant mounting hardware. An example of the last is the use of anti-vandalism rivets, which make it more difficult to remove signs.

Sign Repair and Maintenance

Repairing or replacing vandalized signs lessens the monetary impact but does not prevent vandalism. Once a vandalized sign assembly has been identified, consideration should be given to whether the sign should be replaced, repaired, left as is, or removed. Techniques for sign repair and maintenance include:

- Repair kits for cleaning, puncture repair, and sign straightening
- Sheeting and legend replacement
- Sign overlays
- Recycling of materials

Sign Ownership Identification

Sign identification programs involve affixing or imprinting information on the sign for identification of ownership, penalties, reporting notices and/or sign installation dates. The indication of sign ownership through the use of stickers, stamped imprints and silk screening is considered one of the most cost-effective countermeasures to sign vandalism. In addition to ownership identification, information on penalties, rewards, inventory numbers, installation dates and vandalism hotline telephone numbers can be incorporated on the identification decals.

Ownership identification is a key element in prosecuting thieves. Even in the absence of laws relating to the unauthorized possession of signs, positive ownership identification may be used to prosecute vandals under “possession of stolen property” statutes.

Enforcement Measures

Enlisting the assistance of the law enforcement community in preventing and reporting sign vandalism and apprehending vandals may reduce sign vandalism. Law enforcement community outreach programs can be used to educate people about the seriousness of the problem.

Legislative Improvements

Sign vandalism concerns have been addressed by an increasing number of states through the development and adoption of new laws and ordinances or the modification of existing legislation to enhance enforcement and prosecution efforts. This legislation is enacted to define vandalism crimes, increase penalties, and increase fines.

Public Information and Education

Improved public perceptions about the costs and potential dangers of sign vandalism through public information and education efforts is considered by many to be an effective countermeasure, as well as an essential supporting activity to other anti-vandalism efforts. Several approaches have been used to inform and educate the public:

- Press releases
- Brochures
- Displays
- Amnesty
- Public education

Most efforts to reduce sign vandalism can be enhanced through public support and cooperation.¹⁰

An example of a program that one community developed is outlined in a publication entitled *Sign Fabrication, Installation, and Maintenance: Innovative Practices, May 1992*.¹¹ The program is described in a section of the publication on “Sign Vandalism: Public Information Campaign Miniature Sign Replicas & Public Presentations”.

Description: For six years, Franklin County, OH has distributed miniature replicas of signs as part of a public information campaign designed to reduce the \$60,000-a-year that was being spent on sign repair and replacement because of vandalism. The information program publicized an Ohio law, which went into effect in June 1990 that increased the penalties for tampering with or taking road signs. The sign replicas, news releases, display, and talks to schools and community groups drew attention to the new law.

The replicas cost 2 cents each, are printed on heavy colored paper with an actual road sign on one side and a message concerning the importance of safety on the other. It also states the costs and legal penalties for sign vandalism.

Procedure: About 55,000 of the replicas have been handed out at schools, through civic groups, on information racks, and at the county fair. Each year, traffic personnel have presented talks at ten schools, where they gave each student a set of eight facsimile signs.

Benefits: In the first three years, the public information campaign, which included the sign replicas, reduced vandalism and costs by 40%. Franklin County estimates that since the law went into effect, sign vandalism and theft has been reduced by 30%.

Public information and education alone might not attain the desired results. These programs seem to work best in conjunction with other countermeasures.

Summary

Traffic sign vandalism has become a serious problem for most public entities. The Federal Highway Administration estimates that one out of ten traffic signs must be replaced each year because of vandalism. The cost of traffic sign vandalism in the U.S. is estimated at \$100 million to \$2 billion a year. In some cases, traffic sign vandalism has been identified as a significant factor in several traffic accidents that caused loss of human life.

Public entities are concerned about the budget costs as well as the potential liability costs associated with traffic sign vandalism. Public entities who have installed traffic signs and other traffic control devices have a duty to maintain them. Therefore, if signs are vandalized, the public entity has a duty to discover the vandalism and take appropriate remedial action.

Public entities can take two important steps to mitigate this exposure: 1) Conduct an inventory of all traffic signs and traffic control devices and 2) Employ reasonable sign vandalism countermeasures. Countermeasures include sign construction and installation, sign repair and maintenance, sign ownership identification, enforcement measures, legislative improvements, and public information and education.

References

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4. News release, Clackamas County, Oregon, February 2, 1999.
5. News release, Minnesota Department of Transportation.
6. *Corning v. East Oakland Township, et al.*; Appellate Court of Illinois, Fourth District, no. 4-96-0168.
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8. Lewis, Darcy. "Sign Vandals Make Their Costly and Deadly Mark." *Traffic Safety*, November/December 1998.
9. Institute of Traffic Engineers, *Traffic Sign Handbook*, 1997.
10. Ibid.
11. *Sign Fabrication, Installation, and Maintenance: Innovative Practices*. Washington, D.C.: U.S. Department of Commerce, National Technical Information Service, May 1992, pp. 62-63.

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