

San Francisco District Attorney's Response to the Civil Grand Jury's Findings and Recommendations
AUTO BURGLARY IN SAN FRANCISCO
Civil Grand Jury Report
JUNE 2016

Pursuant to California Penal Code Section 933.05, the San Francisco District Attorney's Office provides the following responses to the Findings and Recommendations directed at the District Attorney's Office.

A. Apprehension of career auto burglars requires coordination by a well-resourced investigative team who sees the "big picture."

Finding F.A.4: Established in 2014, the DA's Crime Strategies Unit is staffed by ADAs who use analytic tools and neighborhood intelligence to predict where crime will occur. While the CSU is well respected by SFPD investigators, it does not replace a professional crime analysis capability integrated with the SFPD's CompStat program.

Agree with the Finding. A collaborative effort between the Crime Strategies Unit and the SFPD Crime Analysis Unit will greatly bolster the analytical support for auto burglary investigations and overall prevention efforts. This requires the sharing of information and open access of police data (Crime Data Warehouse) for the Crime Strategies Unit.

Recommendation R.A.2.: District Attorney. Expand the mission of the Crime Strategies Unit to meet the pressing need for regional intelligence about serial auto burglary. The intelligence should compare San Francisco arrest rates, sentencing outcomes, and recidivism rates to those of adjacent jurisdictions. The findings and recommendations should be collated into an annual report.

The recommendation has been partially implemented. The Crime Strategies Unit has initiated a number of operations to address the problem of auto burglary. Such operations have spanned across jurisdictions in the Bay Area and have incorporated local, state, and federal law enforcement efforts. The objective of said operations are to target serial auto burglars. To that end, regional intelligence collection on serial auto burglary is an ongoing endeavor and focus of the Crime Strategies Unit. However, an annual comparison report of arrest rates, sentencing outcomes, and recidivism rates between San Francisco and its adjacent jurisdictions is an unreasonable task for the Crime Strategies Unit. Though the unit has greatly enhanced its ability to analyze and assess regional police incident data through the acquisition of LEAP Network and partnership with the Northern California Regional Intelligence Center (NCRIC), prosecution data from adjacent jurisdictions is required to prepare a comprehensive and relevant report. The San Francisco District Attorney's Office conducts monthly audits and review of internal prosecution data, culminating in the monthly DAStat Report. It is unknown whether neighboring jurisdictions have the same data capabilities or capacity to contribute to a regional comparison report.

Finding F.A.3.: The Patrol Bureau Task Force pioneered a tactic of tracking serial offenders through multiple break-ins before making the arrest. While this tactic enables the possibility of bundling cases for the DA, its benefit must be weighed against the harm done to victims prior to an arrest.

Agree with the Finding.

Recommendation R.A.3.: Chief of Police and District Attorney. Collaborate with the FBI to apprehend the most prolific regional auto burglars to bring federal charges.

This recommendation will not be implemented. Although federal criminal jurisdiction extends to a variety of motor vehicle theft related activities, the receipt, possession, sale, or disposition of a motor vehicle or property **must** cross a state or United States boundary after being stolen. Auto theft and auto burglary cases committed in San Francisco are predominantly local offenses that usually have little connection to interstate commerce and therefore fall outside the jurisdiction of the federal government.

B. Post-arrest investigations and documentation should be rigorous to maximize the number of chargeable cases.

Finding F.B.1.: The ADA must sometimes acquire video evidence to meet evidentiary standards after charges have been filed. This requirement distracts from what should be the primary focus -- preparing to prosecute.

Agree with the Finding.

Finding F.B.2.: While the ADA works closely with arresting officers and post-arrest investigators on best practices for evidence collection, neither the best practices nor elements of the POST curriculum are incorporated into a professional development classes specific to auto burglary in San Francisco.

Agree with the Finding.

Recommendation R.B.1.: SFPD Deputy Chief of Operations and District Attorney. Expand the department's capability to meet all requests for video by the reviewing ADA for auto crime, including requests submitted after the case has been charged. (Civilians may be used for this purpose.)

This recommendation has been implemented. In the summer of 2015, the Crime Strategies Unit initiated the Security Camera Interactive Map project. The goal of the program is to deter crime and promote public safety through collaboration between the San Francisco District Attorney's Office and the community. The map is an interactive database of known security cameras in the city of San Francisco. Information such as: location, point of contact, camera specifications, storage type, views captures, and retention length are documented and stored on the database for access by prosecutors and police officers. The San Francisco District Attorney's Office has also published a registration form on its website for members of the public to register their security cameras. The benefits of this program has proven to be two fold in that a) it enhances the ability for ADAs, SFPD, and DA Investigators to quickly respond to and preserve video after an auto burglary incident has occurred; b) it allows the Crime Strategies Unit to collaborate with the community to identify security camera gaps in relation to identified auto burglary hot spots.

Recommendation R.B.3.: SFPD Deputy Chief of Operations and District Attorney. Require the SFPD Training and Education Division and DA's Criminal Division to co-create a professional development class on best practices for evidence collection in burglary cases.

This recommendation has been implemented and will be further expanded. The San Francisco District Attorney's Office has and will continue to contribute to SFPD training from cadet through advanced officer training. The District Attorney's Office provides evidence training at the Police Academy – specifically addressing auto burglary and the collection and preservation of evidence in auto burglary cases during POST LD 17. The training includes but is not limited to: addressing issues relating to tourist victims and witnesses, “nest” and other video recording devices that are not easily seen from the street, photographing all recovered property, photographing and seizing all clothing in on-viewed cases, booking cell phones as evidence rather than property, calling cell phones from the officers department issued phone to confirm authorized possessor, emphasizing complete and recorded statements when victims/witnesses do not reside in San Francisco, and obtaining rental agreements/parking stubs/proof of payment. Crime Strategies ADAs and the Auto Crimes ADA will also continue to provide ongoing training and support to patrol and station investigators.

Additionally, the Crime Strategies Unit has utilized an expansive peer-to-peer learning network with criminal justice agencies from across the nation to explore innovative means of addressing crime problems such as auto burglary. In July of 2016, members of the Crime Strategies Unit including an ADA and an analyst conducted a site visit at King County, Washington to learn about strategic initiatives that may be applied to the auto burglary problem in San Francisco. King County faced a rising trend in motor vehicle thefts beginning in the early 2000s, but was able to reduce their numbers dramatically in just a few short years through a collaborative effort between prosecutors, analysts, and various law enforcement agencies. The Crime Strategies Unit plans to share the best practices learned from King County with law enforcement partners with the aim of replicating the same reductions in auto burglary.

C. Efficient charging and prosecution require data driven assessments and expanded prosecutorial capability.

Finding F.C.1.: Complicated cases involving prolific auto burglars are specially handled by three different units: the reviewing ADA of auto crimes, the Gang Unit, and the Crime Strategies Unit. Each unit's unique perspective may impede the pooling of information needed to develop best practices for prosecuting organized criminals.

Disagree with the finding. One of the primary functions of the Crime Strategies Unit is to enhance the pooling of information needed to develop best practices for prosecuting organized criminals. The unit takes a proactive approach, utilizing the Arrest Alert System to identify incoming cases of prolific auto burglars before they are even assigned at intake. Additionally, the Crime Strategies Unit has implemented a CSU Checklist of best practices to include in case dockets for identified crime drivers that warrant specialized attention.

Recommendation R.C.1.: Mayor's Office of Public Policy & Finance, Board of Supervisors, District Attorney. Establish a serial crimes unit as a counterpart to the SFPD's Patrol Unit Task Force and its future serial crimes unit (R.A.5.). The unit's mission would be to prosecute cross-district, serial property crimes by organized career criminals.

The recommendation has been implemented by the San Francisco District Attorney's Office. The Crime Strategies Unit works closely with the SFPD's Patrol Bureau Task Force and incorporates all functions and elements of a serial crimes unit. ADAs in the unit work with their district stations and specialized police units to identify major cross-district crime drivers who

often fit the classification of an organized career criminal. CSU ADAs will either keep the case for vertical prosecution or follow the case closely to ensure that the identified crime drivers of auto burglary are prosecuted appropriately.

Recommendation R.C.3.: The District Attorney. Expand the Crime Strategies Unit's mission to include the monitoring of factors affecting the prosecution of criminal street gangs operating in adjacent counties. The work product of the unit should include a database of indicators such as population densities, crime rates, arrest rates, and normalized sentencing outcomes for auto burglary and other property crimes.

The recommendation has been partially implemented. The Crime Strategies Unit has initiated operations partnering with law enforcement agencies in adjacent counties to target criminal street gangs. Information collected pertaining to criminal street gangs operating in adjacent counties will be restricted to an operational level of analysis. It is infeasible for the Crime Strategies Unit to maintain a macro level database of indicators concerning adjacent counties because we do not have ongoing access to detailed information from SFPD or any adjacent county to facilitate the data analysis suggested.

Recommendation R.C.4.: The District Attorney. The DA should require the Crime Strategies Unit to prepare an annual report to be reviewed by the Sentencing Commission at a quarterly meeting.

The recommendation will be implemented. Contingent upon the successful acquisition of Crime Data Warehouse from SFPD. SFPD is solely in control of the Crime Data Warehouse. Absent a complete data set, any annual report would be incomplete and inaccurate. The DA's Office is currently in discussions with SFPD to obtain access to the Crime Data Warehouse. The DA's office is hopeful that access will be granted by December 2016.

D. Performance indicators should be useful and transparent to the public.

Finding F.D.4.: While statistics for total cases filed and prosecuted provides transparency into the operational pace of the DA's Office, the public is currently interested in seeing numbers for cases filed and prosecuted for the City's top property crime today -- auto burglary.

Agree with the Finding.

Recommendation R.D.4.: The District Attorney. Require the Crime Strategies Unit to prepare a comparative analysis of serial property crimes, arrest rates, and normalized sentencing outcomes for organized criminal gangs in San Francisco and adjacent counties.

This recommendation will not be implemented. It is unknown whether neighboring jurisdictions have the same data capabilities or capacity to contribute to a regional comparison report. (See R.A.2)

Recommendation R.D.5.: Board of Supervisors Government Accounting and Oversight (GAO) Committee. Require the District Attorney to present to the GAO the comparative analysis (R.D.4) and annual report (R.C.3.) of the crime strategies unit, including significant findings and recommendations.

This recommendation will be partially implemented. We will present our annual report to GAO. However, it is we are unable to prepare a report regarding the neighboring jurisdictions, as we do not have access to their data and it is unknown whether neighboring jurisdictions have the same data capabilities or capacity to contribute to a regional comparison report. (See R.A.2)

E. The four Ps of deterrence: prevention, planning, programs, and punishment.

Recommendation R.E.4.: Chief of Police and District Attorney. In the case of crimes against tourists and visitors involving career criminals and criminal street gangs, collaborate and coordinate with the United States Attorney's Office for referral of appropriate cases for federal prosecution under. 18 U.S.C. 875, interstate commerce and 18 U.S.C. 521, criminal street gang enhancement.

The recommendation has been implemented.

The District Attorney's Office will continue collaborate with the United States Attorney's Office and other prosecutorial agencies whenever possible to coordinate the most effective prosecution. However, neither 18 U.S.C. §875 nor 18 U.S.C. §521 provide the United States Attorney's Office with tools to address auto theft or auto burglary in San Francisco. However, auto theft, auto burglary, and criminal street gang cases committed in San Francisco are predominantly local offenses that have no connection to interstate commerce and therefore fall outside the jurisdiction of the federal government.

18 U.S.C. §875, entitled Interstate Communications, is the crime of transmitting in interstate or foreign commerce any communication demanding ransom or reward for a kidnapped person or extorting money or value from threatening to kidnap a person, threatening to physically injure a person, threatening to injure a person's property, threatening to injure a person's reputation or threatening to accuse another person of a crime.

18 U.S.C. §521, entitled Criminal Street Gangs, is a sentencing enhancement for criminal street gangs that have a primary purpose of committing or conspiring to commit a Federal controlled substance felony or a Federal violent felony and are engaged in a continuing series of these offenses affecting interstate of foreign commerce.

For the reasons described above, neither 18 U.S.C. §875 nor 18 U.S.C. §521 provide the United States Attorney's Office with a regular avenue to prosecute auto crimes. On the rare occasion where an auto crime committed by a gang under the very specific circumstances that fall under these statutes or when stolen vehicles or property crosses state lines within the meanings of 18 U.S.C. §2312 and §2313, the District Attorney's Office will present the case to the United States Attorney's Office for consideration.