

Criminal Justice System

Summary

The current Criminal Justice System in the City and County of San Francisco is not only inefficient and cumbersome, it perpetuates a long-standing situation of mutual mistrust and finger-pointing between the District Attorney's Office and the Police Department. There is something inherently wrong with a system that, at one end of the criminal justice process, starts with over 55,000 felony arrests per year and ends with fewer than 2,000 cases actually being tried in court. While we fully understand the difference between "probable cause" arrests, jury scrutiny and determination of "beyond a reasonable doubt", there appears to be a lack of common goals and incentives on the part of the District Attorney and the Police Department. There exists an adversarial environment which, unfortunately, is unique to San Francisco, and is manifested in such negative practices as risk aversion, game-playing, and underutilization of current technological information systems tools. The result is revolving-door discharges, jail overcrowding, a flawed re-booking process, and built-in conflicts of interest. It is time for the San Francisco District Attorney's Office and the San Francisco Police Department to work together in a new spirit of comity and cooperation to improve our Criminal Justice System -- with the common goal of freeing the innocent and punishing the guilty.

Background

As a result of conflicting reports regarding the efficacy of the City's criminal justice system, the Civil Grand Jury initiated inquiries into the Criminal Justice System with a major focus on the District Attorney's Office and the Police Department. Our investigation led to parallel conclusions consistent with those already set forth in a comprehensive, professional study conducted by CSC/Index during 1992-1993. The CSC/Index reports [1] (see Appendix A) detail major problems affecting the system -- including a lack of common goals and incentives, an authority/autonomy imbalance, a non-cooperative adversarial environment and inadequate and underutilized information systems tools.

The CSC/Index reports virtually disappeared from circulation and only resurfaced six months after the Civil Grand Jury began making inquiries concerning the criminal justice system. The rediscovery of these reports was disturbing, and precious time was lost conducting extensive observations and interviews among staff in the District Attorney's Office and the Police Department.

The CSC/Index study included first-hand observations, interviews and extensive data collection. The entire criminal justice system, from arrest to disposition, was carefully examined. These reports divide the criminal justice process into two phases. [2] Issues and alternatives in these two phases are explored. In our own investigation, we focused primarily on the front-end phase.

The CSC/Index reports identify the numerous "hand-offs" that occur in the two phases and outline the incredible amount of paperwork which is generated in the process. In our own investigation, it was evident that the quantity of paperwork is a serious threat to the viability of law enforcement. Also the lack of automation for police record keeping exponentially reduces police effectiveness while increasing police administrative overhead costs.

The quality of police report writing remains an issue. Police arrest reports are the cornerstone for the successful prosecution of criminal behavior. Good policing requires good arrest reporting. Effective criminal prosecution, as practiced by the District Attorney and the Police Department, is at risk.

In October 1990, the CORO Foundation submitted a report [3] to the San Francisco Police Department (see Appendix B) identifying serious flaws in police practices concerning arrest report writing. This document states, in part:

"It can hardly be denied that the overall quality of reports written by S.F.P.D. is relatively poor. The department has realized serious deficiencies in report-writing and has assigned the Staff Inspection Unit to take vigorous action to pinpoint the problems and devise and implement solutions to these report-writing problems."

(p. 6)

Since the CORO Foundation report was issued, the Police Department has enacted changes to address this problem, relying primarily on Police Academy training of new recruits. They have produced a Report Writing Manual within the past three years, as well as redesigning the Report Form itself. During the past year, the Department has also revised its Performance Improvement Program to monitor and improve performance. An accompanying Performance Appraisal Guide has also been revised. However, interviews conducted with various law enforcement personnel indicate that improvements to report-writing practices remain elusive.

The District Attorney's Office claims inadequate police reporting prevents them from prosecuting felons. This is a serious charge. This office contends that investigations of felony cases are hampered by substandard report writing. The Police Department perceives this issue differently. They contend that their paperwork improvements have not resulted in an increase in criminal prosecutions. The Police speculate that the District Attorney is disinterested in pursuing cases deemed "unwinnable". This blame-game is a "black eye" on the face of the criminal justice system.

Findings - The District Attorney's Office

The District Attorney does not keep any auditable statistics on the cases which are forwarded to them by the Police Department. They do not track dispositions -- non-re-bookings, reductions in charges, plea-bargains, alternative dispositions, arraignments, trials, etc.

The District Attorney's Office has no written performance standards nor any objective means of effectively evaluating staff efficiency. It operates on the concept of individual management criteria and informal subjective assessment. There is no formula for distribution or calculation of the workload other than guesswork.

Standards need to be established for recording information. At present there are no means to correlate or audit the work of the District Attorney, the Police Department, the Sheriff's Department and the Criminal Court System. Any attempt to obtain a complete grasp of our criminal justice system from available statistics is a lesson in futility.

Recommendations

1. The District Attorney must keep accurate, auditable records of the work flow through their office. This should include such categories as the number, classification and Criminal Code sections of arrests, bookings, re-bookings, dispositions, etc. These records also should be indexed to the personnel who handle the cases at each stage and accountable to the time spent on each case by each employee -- as in any private law practice.
2. Disposition information must be routinely relayed to the Police Department so that their records may be completed.
3. An annual statistical report should be published containing this data. One year following the full implementation of this recommendation, an outside performance audit should be performed.

Findings - The District Attorney's Office and the Police Department

Currently the Police Department has no means of completely tracking their arrests. They receive little, if any, feedback from the District Attorney regarding the quality of their arrest and booking reports. Nor does an officer or station regularly receive information regarding the disposition of an arrest once the case is closed (dismissed, plea-bargained, prosecuted, etc.).

No statistics are kept in a standardized format by which they may be correlated with any other component of the criminal justice system. True evaluation of the effectiveness of any particular officer or station becomes a matter of subjective, rather than objective, assessment.

Recommendations

4. The Police Department should keep detailed records of each police arrest, including such facts as the charges and disposition. Information from the District Attorney's Office should be recorded before any file is closed. This information should be kept in an auditable manner by Criminal Code section, station, officer, and case.
5. An annual statistical report should be published containing data by station and department. Officer information should be made a part of each personnel file. Two years following full implementation of this recommendation an outside performance audit should be performed.

Finding - The Police Department

Police incident reports are a continuing problem. Interviews with key City law enforcement officials confirm that a crisis is brewing pertaining to the quality of police arrest reports. This situation, coupled with the avalanche of paperwork associated with the criminal justice process, is very disturbing.

Recommendation

6. The San Francisco Police Department should redouble its efforts to improve police incident reporting. This can be accomplished through a dual approach. First, by using technology to reduce the paperwork burden on the criminal justice system and instituting better management controls (supervision, mentoring, rewarding) over the

chain of command responsible for the arresting officers.

Secondly, all reports which are not re-booked should be reviewed by a designated police officer at the level of sergeant, lieutenant or inspector, and that designated officer should keep a statistical analysis identifying the reasons the reports were not re-booked. All reports not re-booked should be reviewed by the station Captain.

Finding - The Police Department

On the issue of jail overcrowding, the federal judiciary's intervention has stimulated the system, literally forcing the District Attorney and the Police Department to expedite a case against a suspect within 24 hours of arrest. If the case is not made by investigators within that time, the suspect is released, and no charges are filed. We have serious doubts as to the commitment of the Centralized Investigation Unit, as it presently exists, to improve their efficiency and production. They are under-staffed in terms of investigative personnel, and they lack an adequate number of vehicles and sufficient basic equipment for the investigators to accomplish their tasks in a timely manner.

Recommendations

7. Because of jail overcrowding, suspects must be released after 48 hours if a case is not filed against them. There are over 80,000 police reports per year. We recommend that the Police Department utilize Section 849b [4] of the Criminal Code to a much greater extent than they are now doing, particularly in non-violent transgressions. This would go a long way toward weeding out cases. Arresting officers can take the suspect to the station, issue an 849b citation and release the suspect with the advisory that, "You may be hearing from the District Attorney.", i.e., issuance of a warrant. This procedure would ease the pressure of jail overcrowding and considerably lower the costs of incarceration during the development of the case.

8. It is our recommendation that the Police Department hire more investigators and provide them with adequate transport, lap-top computers and a sufficient number of telephones and desks with which to conduct their investigations in a professional manner. Top echelon officers of the Police Department need to show the citizenry that they are really serious about the implementation of a Centralized Investigations Unit; they need to do more than merely pay lip-service to this concern.

Finding - Overall

The Civil Grand Jury has felt stymied, even thwarted, in obtaining various reports and studies which have been developed in recent years on the Criminal Justice System in San Francisco. It would appear that the District Attorney's Office and/or the Police Department are unaware of these previous studies or that they have relegated them to the dustbin (or the "basement files") as being no longer relevant. It would seem that both of these organizations have eschewed the recommendations made in independent studies developed by recognized organizations within the past six years. We cannot determine whether this is because of historic departmental culture or because of a "not-invented-here" syndrome. The studies to which we refer are the aforementioned CSC/Index studies and the CORO Foundation report. It should be noted that these studies were not voluntarily made available to us by either the District Attorney or the

Police Department until their existence was discovered by the Civil Grand Jury. The studies were extremely important in helping us understand the current problems of the criminal justice system in San Francisco. Particularly noteworthy in the CORO Foundation report is Section V which deals with the quality of report writing by the Police Department and its effect on the changes brought about by Proposition 115. [5]
Recommendation

9. At this critical juncture in the governance of the City and County of San Francisco, we feel that the confluence of a newly-elected Mayor, a newly-elected District Attorney, and a restructured Police Department with a new Chief of Police, makes it timely and imperative that an insightful effort be undertaken to streamline the Criminal Justice System. The Mayor is the key player. He must fully support a concerted effort (by a special commission or through an ad hoc study) to coordinate the activities of the District Attorney and the Police Department. The process of arrest-booking-incarceration-trial is seriously flawed. This effort to streamline the criminal justice system should be initiated no later than September 1996; should take into account prior studies; and should be approved by the Mayor and the Board of Supervisors. Enabling legislation or an executive order should be forthcoming within one year of the date of this Civil Grand Jury Report.

Finding - Overall

Communications between the District Attorney's Office and the Police Department are inefficient, ineffective, and even, at times, disdainful. The personnel in each of these departments does not seem to have a clear understanding of each other's role and purpose, and have no mechanisms in place to reverse this.

Recommendation

10. The District Attorney's Office and the Police Department should begin a more respectful dialogue at the highest levels with attention given to cooperative interaction between patrol officers and assistant district attorneys. The departments should encourage police patrol "ride-alongs" for assistant district attorneys, and police sergeants should work in the Inspections Bureau before reviewing incident reports. The District Attorney should redeploy some assistant district attorneys to police stations in order to complement the work of the police at the station level. By instituting such procedures, the District Attorney could learn more about crime problems at the community level. It would also be conducive to preventing problems from proceeding downtown.

Responses Required

Mayor

Board of Supervisors

District Attorney's Office

San Francisco Police Department

APPENDICES

Note: The appendices consist of the following items, which can be obtained by contacting the San Francisco Civil Grand Jury.

A CSC/INDEX

City of San Francisco, Reengineering the Criminal Justice System, Final Presentation, April 15, 1993

City of San Francisco, Criminal Justice Process, January 25, 1993

City of San Francisco, Criminal Justice Process Status Report, February 16, 1992

B THE IMPACT OF PROPOSITION 115 ON THE SAN FRANCISCO POLICE DEPARTMENT, A STUDY CONDUCTED FOR ASSISTANT CHIEF OF POLICE WILLIS CASEY BY LESLIE HITAYAMA, CORO FOUNDATION, OCTOBER 1990

Notes:

[1] City of San Francisco: Criminal Justice Process Status Report. San Francisco: CSC/Index, February 16, 1992

City of San Francisco: Criminal Justice Process. San Francisco: CSC/Index, January 25, 1993.

City of San Francisco: Reengineering the Criminal Justice System - Final Presentation. San Francisco: CSC/Index, April 15, 1993 (see Appendix A)

[2] Front-end phase -- 1) Give citation/arrest and booking. 2) Detain/release from jail. 3) Dismiss/file charges

Back-end phase -- 1) Arraignment. 2) Pre-trial court events, formal and informal. 3) Trial. 4) Post-trial sentence/probation.

[3] Hatamiya, Leslie. The Impact of Proposition 115 on the San Francisco Police Department: A Study Conducted for Assistant Chief of Police Willis Casey. San Francisco CORO Foundation, October 1990. 12p.

[4] Criminal Code 849b, "Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever: 1) He or she is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested. 2) The person arrested was arrested for intoxication only, and no further proceedings are desirable. 3) The person was arrested only for being under the influence of a controlled substance or drug and such person is delivered to a facility or hospital for treatment and no further proceedings are desirable." (Last amended 1984.)

[5] Prop. 115, entitled "Crime Victims Justice Reform Act of 1989", was passed on June 5, 1990 and went into effect the next day. Its primary goal was to expedite the criminal justice trial process, and its provisions include, but are not limited to giving crime victims and all citizens the right to a speedy trial, consolidating cases, streamlining preliminary hearings, allowing experienced