



Agenda Report

20-1350

Agenda Date: 12/16/2020

REPORT TO COUNCIL

SUBJECT

Information Report Regarding Automobile Burglaries, including Strategies for Prevention

COUNCIL PILLAR

Deliver and Enhance High Quality Efficient Services and Infrastructure

BACKGROUND

In 2018, retired Assistant Chief of Police Dan Winter testified in front of a State Legislature Committee on the need for more resources to combat automobile burglaries.

In June 2019, the California legislature approved a state budget with improvements in funding for education, mental health services, affordable housing, etc. As part of the budget, Assemblymember Kansen Chu secured \$3.75 million in funding to combat the rising number of “smash and grab” car break-ins in Assembly District 25. Each police department in Assembly District 25 (Milpitas, Fremont, Newark, Santa Clara and San José) was the recipient of \$750,000 in California Board of State and Community Corrections (BSCC) grant funding.

On September 17, 2019, the City Council approved the BSCC grant funding to combat automobile burglaries and a related budget amendment.

A press conference commemorating such was held by Assemblymember Chu at the Milpitas Police Department on August 9, 2019.

DISCUSSION

On January 30 and 31, 2020, the City Council held a two-day goal and priority setting session at the Central Park Library. The City Council discussed and established citywide priorities to serve as a policy framework for budget decisions and how City resources are aligned to support these objectives. During the session, the City Council requested the Police Department return to a future City Council meeting to discuss automobile burglaries, including strategies for prevention.

This report summarizes:

- California Laws Impacting Property Crimes
- California Penal Code Crime Definitions and their associated penalties
- Santa Clara Police Department Pursuit Policy
- City of Santa Clara Crime Statistics
- Impact of “Smash and Grab” Property Crimes
- Law Enforcement Identification of the Problem

- Santa Clara Police Department Goals in Addressing the Issue
- Police Department Initiatives, Past and Proposed as a result of BSCC funding
- Pending Legislation
- Future Financial Considerations

California Laws Impacting Property Crimes

The realignment in the California criminal justice system (Assembly Bill 109, Criminal Justice Realignment Act, passed by voters in October 2011) eliminates state prison as a sentence option for various felonies and transfers responsibility of these offenders to county jails and probation offices. Proposition 47 (passed by voters in November 2014) reduced certain drug possession felonies to misdemeanors and eliminated the criminal statute for serial theft. It also requires misdemeanor sentencing for petty theft, receiving stolen property and forging/writing bad checks when the amount involved is \$950 or less. Proposition 57 (passed by voters in November 2016) allows parole consideration for nonviolent felons, changes policies on juvenile prosecution and authorizes sentence credits for rehabilitation, good behavior, and education. In some cases, certain felony convictions were also retroactively erased.

In addition, persons released from state prison on or after October 2011, are released into Release Community Supervision (PRCS). The type of supervision is determined by the California Penal Code (PC). Penal Code 3451 provides that only the following offenders released from California Department of Corrections and Rehabilitation are supervised on parole:

- An offender serving a current term for a serious felony, as described in PC Section 1192.7(c).
- An offender serving a current term for a violent felony, as described in PC Section 667.5(c).
- An offender serving a current term of life.
- An offender classified as a High-Risk Sex Offender.
- An offender determined to be a Mentally Disordered Offender.

This has resulted in thousands of reviews and the approval of over 500 offenders for release.

In addition, the above actions have resulted in unintentional consequences. "Smash and grab" automobile burglaries were declining state-wide from 2007 to 2014 to roughly 24 incidents per 100,000 residents. Immediately after the passage of Proposition 47, thefts from vehicles started to increase throughout the state, and have significantly increased since.

California Penal Code Crime Definitions and their Associated Penalties

In California, Penal Code 459 provides a summary of the following general crimes:

Automobile burglary - Auto burglary is defined as entering any vehicle when there is: 1) evidence of forced entry into a locked vehicle, and 2) intent to commit theft or one or more felonies. Individuals charged with auto burglary can be charged with petty or grand larceny, or other appropriate crime.

If the crime does not satisfy all of the elements of burglary (e.g. enter an unlocked vehicle, lack of intent, insufficient evidence, duress or threats, etc.), an individual may still be charged with attempted burglary (e.g. unable to enter due to car alarm being set off), tampering with a vehicle (e.g. enter a vehicle and search for valuables but steal nothing), vandalism (e.g.

purposely slash the tires) or looting (e.g. auto burglary during a state of emergency, such as a riot or earthquake). Each of these charges are separate.

Larceny - To commit the crime of larceny, also known as theft, petty theft, or grand theft, a person must take someone else's property without permission and with the intention to permanently deprive the owner of its use or possession. A theft may occur during the course of a burglary, but it can also occur as a separate incident.

Petty larceny - Also referred to as petty theft, is generally when the value of the money, labor, real or personal property taken does not exceed \$950.

Grand Larceny - Also referred to as grand theft, is committed when the money, labor, or real or personal property taken is of a value exceeding \$950. Grand larceny is also committed when the property taken is an automobile.

In California, auto burglary is considered to be a form of second-degree burglary, which is a wobbler offense. Penalties will differ based on whether you are convicted of a misdemeanor or felony burglary charge.

- The penalty for a misdemeanor auto burglary charge is up to one year in County Jail.
- The penalty for a felony auto burglary charge may be a jail sentence of 16 months, two years, or three years.

The exception to these penalties is the burglary of a trailer coach, such as an RV, which is considered to be an "inhabited" structure. In this case, it may be considered a felony first-degree burglary with penalties of two to six years in California state prison.

City of Santa Clara Crime Statistics

Currently, California reports crimes under the Uniform Crime Reporting (UCR) method. UCR classifies crimes into Part I violent crimes and Part II property crimes, with 8 index offenses representing 21 crimes. When multiple offenses occur in one crime incident only the most serious offense is counted, known as the hierarchy rule. For instance, if an individual commits a burglary (e.g. forcible entry) and then rapes a victim only the rape would be reported to the FBI.

Effective January 1, 2021, the National Incident Based Reporting System (NIBRS) will replace UCR. NIBRS collects data for 52 offenses, plus 10 additional offenses for which only arrests are reported. The hierarchy rule does not apply with NIBRS and law enforcement agencies will be required to submit detailed information about all the offenses committed in a single incident. NIBRS also includes detailed information about the victim, the offender, any witnesses and the nature and type of the offense. NIBRS also provides information about the circumstances under which the criminal offense took place and the known characteristics of the victim and the offender such as their age, sex, race and the relationship between them. In the example above, both the burglary and rape would be reported to the FBI.

SCPD is sharing this information with the City Council because the City's crime statistics will look very different beginning in 2021.

The current data for vehicle burglaries and thefts from vehicles is as follows:

Year	Number of vehicle burglaries and thefts from vehicles	Percent increase / decrease over previous year
2016	1,052	
2017	1,850	+ 75.9%
2018	1,907	+ 3.1%
2019	2,970	+ 55.7%
January 1- October 31, 2020	1,030	-55.6%

The above chart does not include tampering with a vehicle or vehicle vandalism.

Impact of “Smash and Grab” Incidents

Victims of vehicle burglaries can face significant costs. Window repairs generally cost several hundred dollars and often involve lost time from work/school. Victims are out the value of stolen property, are burdened by the cost to replace the stolen item(s), use valuable time to work with insurance companies and may see an increase in their insurance rates. Some victims also suffer feelings of helplessness and personal violation that come from having an intruder destroy one’s property and rummage through their possessions.

Law Enforcement Identification of the Problem

Addressing property crimes is not a simple matter. Research indicates there are multiple challenges facing law enforcement, including:

- Incident occurrence location varies
- Thefts from vehicles span an extended period of time each day
- Suspects use a stolen vehicle when committing a crime, or remove and replace the license plate with that from another car (referred to as cold plate)

Santa Clara Police Department Goals in Addressing the Issue

- Create awareness among individuals who live, work and visit Santa Clara to not leave valuables in their vehicle
- Establish partnerships among car rental companies, hotels, retail establishments and high-tech businesses, particularly those near expressways and freeways, about their guardianship over their vehicles and/or parking facilities (e.g. lighting, gates, video cameras, security personnel, etc.)
- Identify perpetrators, both professionals and amateurs
- Pinpoint avenues where suspect(s) are reselling valuables (e.g. pawn shops, online sales - eBay, Craigslist, OfferUp, etc.)
- Identify recipients and/or movers of stolen goods to later resell for profit, known as fences
- Support legislation that increases penalties for property crimes

Efforts to Combat “Smash and Grab” Incidents to Date

Prior to the receipt of BSCC funding, the Police Department took several proactive steps to address

preventing thefts from vehicles among residents, property owners and visitors, including:

- Educational messages on the City / SCPD website and social media;
- Community meetings;
- Flyer distribution in targeted areas encouraging drivers not to leave valuables in their vehicle;
- Conversations with car rental companies and supply them with educational flyers to provide to renters;
- Meetings with hotel management and shopping center property managers to encourage ample lighting, security personnel, signage, video surveillance and maintain an open line of communication;
- High visibility patrols in areas where break-ins have occurred *;
- Undercover operations to locate in-progress thefts and apprehend suspects; and,
- Partnered with the Santa Clara County Special Enforcement Team, a county-wide Task Force, and the San Jose Police Department's Burglary Prevention Unit to assist in the successful prosecution of suspects connected with automobile burglaries and the fencing of property connected with automobile burglaries.

** The Police Department's Crime Analyst is identifying areas of common occurrence on a daily basis and recommending deployment of resources accordingly.*

Funding for this education and enforcement has been paid for from the Police Department's operating budget.

The Police Department's arrest and prosecution of 21 members of the Ghost Town Gang in December 2015, resulted in a temporary reduction in automobile burglaries. However, Police Department investigations have shown these crimes are no longer exclusively being performed by organized criminal groups. With the number of independent criminals committing automobile burglaries increasing, the statistics continue to escalate.

New Initiatives as a Result of California Board of State and Community Corrections Funding

BSCC funding has allowed the Police Department to work collaboratively with the Milpitas, Fremont, Newark and San José Police Department's. A Task Force has been established to discuss common issues, share resources and brainstorm solutions. As a result of the task force, the following new community education strategies have been implemented:

- Obtained support from the Santa Clara County District Attorney's Office to support the enforcement efforts on a regional basis;
- Development of the "Remove It or Lose It" slogan;
- Design of a logo using the slogan and patches for use on marketing materials for participating agencies;
- Purchase of A-frame signs with crime prevention messaging for use at special events and in City-owned parking lots;
- Purchase of Waze advertising, a traffic and navigation app, cautioning users from leaving anything of value visible in their vehicle (launch delayed as a result of COVID-19); and
- Creation of an agency specific promotional video in multiple languages demonstrating how

quickly “smash and grab” automobile burglaries take place, sharing ways to protect your valuables and stressing the importance of reporting suspicious activity.

In addition, the Task Force is working with the Santa Clara County District Attorney’s Office to fund a Crime Analyst in the Crime Strategies Unit. A Memorandum of Understanding is being drafted by the District Attorney’s Office.

The Police Department has incorporated language in the City’s Legislative Advocacy Positions regarding criminal activity, particularly property crimes.

Finally, the Police Department is working with the City’s Purchasing Division to procure the following equipment:

- Vehicle trackers
- Automatic License Plate Reader (ALPR)
- Camera Systems
- Leads Online - web-based tool that allows Detectives to search selling websites (e.g. eBay, Craig’s List, OfferUp, etc.) for stolen property by serial number and description
- Vigilant - web-based ALPR analytical program to identify and track automobile burglary subjects

As a result of these initiatives, the Police Department has spent \$290,803 in BSCC funding as of February 28, 2020. An additional \$55,200 is in the procurement process.

California Board of State and Community Corrections Grant	Amount Spent to Date	Amount in the Procurement Process
Equipment	\$49,710	
Staff - Regular time	\$0	
Staff - Overtime	\$228,968	
Contractual Services	\$53,329	\$55,200
Community Education	\$2,608	
Miscellaneous	\$12	
Total	\$334,628	\$55,200

Changes in Behavior as a Result of Shelter-in-Place

The Santa Clara County Public Health Department issued a Health Order to shelter-in-place on March 17, 2020. Ironically, in the early phases of the Health Orders, thefts from vehicles were significantly reduced.

As a result, the BSCC participating agencies postponed some of the new initiatives (e.g. use of A-frame signs at City-wide special events, Waze advertising, etc.). In addition, our Department greatly reduced high visibility patrols and undercover operations due to lack of need.

Since that time, the Police Department has observed four significant trends:

- Thefts of catalytic converters are on the rise
- An increase in bicycle thefts
- Commercial burglaries have doubled
- Thefts from vehicles have transitioned from retail areas to residential neighborhoods

The Police Department has distributed messaging on these topics (Crime Trend - Catalytic Converter Thefts on the Rise, April 27, 2020; Community Crime Information and Prevention Tips, April 28, 2020; Don't Get Complacent you're your Security Efforts, July 27, 2020) on its website and social media, as well as provided details about specific incidents in the Police Blotter.

Meanwhile, deployment efforts have mirrored prior practice for vehicle burglaries. The Department's Crime Analyst identifies trends amongst the crime data and determines the best times of day to deploy officers to specific locations.

Pending Legislation

In March 2020, the Police Department provided feedback on a Legislative Advocacy position titled "Reducing Crime and Keeping California Safe Act." This draft bill qualified for the November 2020 ballot, and amends state law to increase penalties for certain theft-related crimes, as well as makes changes to the release consideration process to exclude inmates that have committed certain crimes, allow for broader appeals of release decisions, expand the grounds on which a release can be denied and require victims to be notified of release reviews. It also changes community supervision practices and requires DNA collection from adults convicted of certain misdemeanors. Finally, the measure establishes new crimes for serial theft as well as organized retail theft.

The Legislative Analyst's Office anticipates that this measure would result in increased state and local correctional costs, primarily related to increases in penalties for certain theft-related crimes and the changes to the nonviolent offender release consideration process. Additionally, there are likely to be minor state and local costs associated with processing probation revocations and additional felony theft filings, as well as for the collecting and processing of DNA samples from additional offenders.

The proposed initiative has a significant level of support, including from the law enforcement community, cities and counties across the state, state-level law enforcement associations, the League of California Cities and other community-based leaders.

Chief's Advisory Committee Feedback on a Community Camera Program

On October 5, 2020, Captain Greg Hill presented materials to the Chief's Advisory Committee regarding the potential for the implementation of a community camera program. The presentation included a summary of existing laws negatively impacting law enforcement's crime prevention efforts (previously discussed in this report), SCPD's existing use of ALPR technology and its' corresponding policy, benefits of mobile cameras, example locations for fixed cameras and data use, storage and retention.

Committee members had a thoughtful discussion (e.g. mining the data, who the information can be shared with, profiling, facial recognition, concern regarding the ability for SCPD to replace damaged cameras, etc.). Following the dialogue, Committee members fully supported the use of BSCC funding toward the implementation of a community camera program.

Future Financial Consideration

Santa Clara's receipt of BSCC funding is expected to garner results and add essential resources to the Department for future use, however, it is one-time funding. To support these initiatives after BSCC funding has been exhausted, SCPD anticipates needing two additional police officer positions. With salary and benefits, the cost to the City, outside the BSCC funding, is estimated at approximately \$500,000.

One Police Officer would work in the Investigations Division, while the second Police Officer would be assigned to work a traditional 11-hour shift and primarily focus on automobile burglaries.

While the Police Department would like to request these positions as part of the FY 2021/22 operating budget cycle, given the forecasted General Fund deficit, it is unlikely any position additions will be recommended as part of the FY 2021/22 operating budget.

Without additional funding (e.g. positions or equivalent overtime budget increase), the Police Department has three options: 1) reduce services to maintain automobile burglary suppression at the level equivalent to what was conducted as a result of BSCC funding, 2) reduce automobile burglary initiatives to match availability of funding, or 3) discontinue an emphasis in automobile burglary initiatives.

ENVIRONMENTAL REVIEW.

This action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

FISCAL IMPACT

There is no fiscal impact from this report.

COORDINATION

This report was coordinated with the City Manager's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>>.

RECOMMENDATION

Note and file the Information Report regarding Automobile Burglaries, including Strategies for Prevention.

Reviewed by: Patrick Nikolai, Chief of Police

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Report to Council 19-941