

Date: Dec. 2, 2008

Item No. 4
File No. 08050

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Determination of jurisdiction on complaint filed by Charles**
- Pitts against the Mayor's Office of Criminal Justice for failure**
- to provide speaking time during a recent public meeting**
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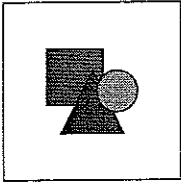
Completed by: Chris Rustom

Date: Nov. 21, 2008

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



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MEMORANDUM

November 24, 2008

**CHARLES PITTS v. MAYOR'S OFFICE OF CRIMINAL JUSTICE and the
STREETS AND NEIGHBORHOOD WORKGROUP (08050)**

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING FACTS:

On October 7, 2008, Charles Pitts attended the Streets and Neighborhood Workgroup and attempted to speak as a member of the public during the meeting. The Workgroup did not allow Charles Pitts to speak.

COMPLAINANT FILES COMPLAINT:

On October 28, 2008, Charles Pitts filed a complaint with the Sunshine Ordinance Task Force ("Task Force") alleging that the Streets and Neighborhood Workgroup violated the Ordinance by failing to allow public comment at its meeting.

JURISDICTION

Based on the allegations of the complaint and the sections of the Ordinance stated below, the Task Force has jurisdiction to hear this matter. In addition the parties in this case do not contest jurisdiction.

APPLICABLE STATUTORY SECTIONS:

1. Sunshine Ordinance Section 67.3 Definition of Meeting, Policy Body, Passive Meeting Body.
2. Sunshine Ordinance Section 67.4(a)(3) Meeting requirements of Passive Meeting Bodies.
3. Sunshine Ordinance Section 67.6(e) Public Comment at Passive Meeting Bodies.

APPLICABLE CASE LAW:

None

Memorandum

ISSUES TO BE DETERMINED

1. FACTUAL ISSUES

A. Uncontested Facts:

The parties agree to the following facts:

- Charles Pitts attended a meeting of the Streets and Neighborhood Workgroup, a advisory body formed by Mayor Newsom.
- The Workgroup did not allow public comment at the October 7, 2008 meeting.

B. Contested facts/ Facts in dispute:

The Task Force must determine what facts are true.

i. Relevant facts in dispute:

- Whether the Workgroup is required to comply with the requirements of the Sunshine Ordinance and State Brown Act?
- Whether the Workgroup must allow public comment at its meetings?

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

none

2. LEGAL ISSUES/ LEGAL DETERMINATIONS:

- Were any sections of the Sunshine Ordinance, and/or Public Records Act were violated?
- Did the Department violate Section 67.21?

3. SUGGESTED LEGAL ANALYSIS

- Determine how the Workgroup was established.
- If a policy body or department did not establish the Workgroup, then it may not be a policy body.
- If the body was formed by the Mayor as an advisory body to assist the Mayor on fiscal, economic, or policy issues, then it may be a passive meeting body.

Memorandum

- **If the Workgroup is a passive meeting, determine if there were any violations of the Sunshine Ordinance.**

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS:

THE TASK FORCE FINDS THAT THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

Memorandum

**THE CALIFORNIA CONSTITUTION AS AMENDED BY PROPOSITION 59
IN 2004 PROVIDES FOR OPENNESS IN GOVERNMENT.****Article I Section 3 provides:**

- a) The people have the right to instruct their representative, petition government for redress of grievances, and assemble freely to consult for the common good.
- b)(1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
 - 2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protect by the limitation and the need for protecting that interest.
 - 3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.
 - 4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided by Section 7.
 - 5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings or public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.
 - 6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committee, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions: nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

Memorandum**ATTACHED STATUTORY SECTIONS FROM CHAPTER 67 OF THE SAN FRANCISCO ADMINISTRATIVE CODE (THE SUNSHINE ORDINANCE) UNLESS OTHERWISE SPECIFIED**

Section 67.1 addresses Findings and Purpose

The Board of Supervisors and the People of the City and County of San Francisco find and declare:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Elected officials, commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.
- (c) Although California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.
- (d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to democracy, and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances should be carefully and narrowly defined to prevent public officials from abusing their authority.
- (e) Public officials who attempt to conduct the public's business in secret should be held accountable for their actions. Only a strong Open Government and Sunshine Ordinance, enforced by a strong Sunshine Ordinance Task Force can protect the public's interest in open government.
- (f) The people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created.

Memorandum

(g) Private entities and individuals and employees and officials of the City and County of San Francisco have rights to privacy that must be respected. However, when a person or entity is before a policy body or passive meeting body, that person, and the public, has the right to an open and public process.

**ATTACHED STATUTORY SECTIONS FROM CHAPTER 67 OF THE SAN
FRANCISCO ADMINISTRATIVE CODE (THE SUNSHINE ORDINANCE)
UNLESS OTHERWISE SPECIFIED**

Section 67.3 provides the definition of a meeting and a policy body.

Whenever in this Article the following words or phrases are used, they shall have the following meanings:

...

(b) **"Meeting"** shall mean any of the following:

- (1) A congregation of a majority of the members of a policy body at the same time and place;
- (2) A series of gatherings, each of which involves less than a majority of a policy body, to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the City, if the cumulative result is that a majority of members has become involved in such gatherings, or
- (3) Any other use of personal intermediaries or communications media that could permit a majority of the members of a policy body to become aware of an item of business and of the views or positions of other members with respect thereto, and to negotiate consensus thereup.

...

(d) **"Policy Body"** shall mean:

- (1) The Board of Supervisors;
- (2) Any other board or commission enumerated in the charter;
- (3) Any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors;

Memorandum

- (4) Any advisory board, commission, committee or body, created by the initiative of a policy body;
- (5) Any standing committee of a policy body irrespective of its composition.

Section 67.3(c) provides a definition of **passive meeting body**:

This section provides:

“Passive meeting body” shall mean:

- 1. Advisory committees created by the initiative of a member of a policy body, the Mayor, or a department head.
- 2. Any group that meets to discuss with or advise the Mayor...on fiscal, economic, or policy issues.

Section 67.4(a)(3) deals with Public Comment during Passive Meeting Body meetings.

This sections provides:

- 3. Such gatherings of a business nature need not provide opportunities for comment by members of the public, although the person presiding may, in his or her discretion, entertain such questions or comments from spectators as may be relevant to the business of the gathering.



<complaints@sfgov.org>
10/28/2008 10:04 AM

To <sof@sfgov.org>
cc
bcc
Subject Sunshine Complaint

Submitted on: 10/28/2008 10:04:46 AM

Department: San Francisco Streets and Neighborhood Workgroup

Contacted: John Hardin, Kevin Ryan, Gary Koenig

Public_Records_Violation: No

Public_Meeting_Violation: Yes

Meeting_Date: October 7, 2008

Section(s)_Violated:

Description: Scope too large to refuse public comment. Was refused to speak.
(See attached)

Hearing: Yes

Date:

Name: Charles Pitts

Address:

City:

Zip:

Phone:

Email:

Anonymous:

Confidentiality_Requested: Yes

User Data

Client IP (REMOTE_ADDR) : 172.31.2.254
Client IP via Proxy (HTTP_X_FORWARDED_FOR) :

Mayor's Office of Criminal Justice

LISTEN

TEXT ONLY

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October 7, 2008

San Francisco Streets and Neighborhoods Workgroup Agenda

Specifics

Date & Time: Tuesday, October 7, 2008, 11:00am – 1:30pm (lunch will be served)
Location: St. Anthony Foundation, 150 Golden Gate Ave @ Jones St.
Co-Chairpersons: Fr. John Hardin, O. F. M., Executive Director, St. Anthony Foundation
Hon. Kevin V. Ryan, Director, Mayor's Office of Criminal Justice
Meeting Contact: Dariush Kayhan, Homeless Policy Director, Mayor Gavin Newsom,
Dariush.Kayhan@sfgov.org, 415-554-4946
Facilitator: Gary Koenig, Psy.D.

Agenda

11:00 Welcome (Co-chairs)
11:05 Meeting Goals and Objectives (Gary)
11:15 Review of Report and Recommendations (Dariush and Co-Chairs)
1:00 Next Steps
1:30 End of Meeting

Mayor's Office of Criminal Justice

HOME PAGE Mayor's Office of Criminal Justice >> Community Involvement and News

Streets and Neighborhoods Workgroup Recommendations to Mayor
**San Francisco Streets and Neighborhoods Workgroup
Recommendations to Mayor Gavin Newsom
DRAFT (October 2, 2008)**

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Appendix B: List of Workgroup Meetings
Appendix C: List of Presenters
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EXECUTIVE SUMMARY

Background

In March 2008 Mayor Newsom directed his staff to convene the San Francisco Streets and Neighborhoods (SF SAN) Workgroup to make recommendations on how to positively impact the quality of life for both visitors and residents. Specifically, these recommendations will guide the City in taking steps to:

- Reduce the harmful impact of behavioral conflicts that prevent a sidewalk or street from being welcoming and open to all;
- Encourage greater levels of civility, tolerance, responsibility, and understanding in public places.

The Workgroup was seated in June of 2008 and met approximately every two weeks over a five month period. The Work group reviewed material and programs from San Francisco and other cities that are similarly focused on improving the environment on their streets. In addition the Workgroup reviewed literature regarding the "broken windows" theory and other philosophies utilized on city streets to address problem behavior.

Recommendations

- 1) Homeless Connect: Open a Homeless Connect Center as a bridge between the Community Justice Center and multi-departmental street outreach staff.
- 2) Homeless Outreach Team Enhancement: Empower the Homeless Outreach Team to

escort homeless individuals to the appropriate homeless services facility.

- 3) Supported Employment: Create more supported employment programs linking target population to competitive employment.
- 4) Home Team Program: continue the development and deployment of the Home Team.
- 5) Drug Free Zones: Establish "drug-free" zone(s) in the areas with the highest concentration of drug crimes and arrests.
- 6) High Impact Zone(s): Establish Zone(s) that have special enforcement of drug laws, aggressive panhandling, sitting/lying on sidewalks, and quality of life crimes.
- 7) Pre-Booking Diversion Program: Implement a Pre-Booking Diversion program.
- 8) Community Justice Center: Implement the Community Justice Center.
- 9) Address Urinating/Defecating in Public: map current bathrooms in high impact neighborhoods and consider increasing bathrooms.
- 10) Permanent Affordable Housing: engage in campaign to raise money to invest in permanent affordable housing.

BACKGROUND

In March 2008 Mayor Newsom directed his staff to convene the San Francisco Streets and Neighborhoods (SF SAN) Workgroup (see Appendix A - List of Workgroup Members) to make recommendations on how to positively impact the quality of life for both visitors and residents. Specifically, these recommendations will guide the City in taking steps to:

- Reduce the harmful impact of behavioral conflicts that prevent a sidewalk or street from being welcoming and open to all;
- Encourage greater levels of civility, tolerance, responsibility, and understanding in public places.

The Workgroup was seated in June of 2008 and met approximately every two weeks over a five month period. The Work group reviewed material from San Francisco and other cities that are similarly focused on improving the environment on their streets. Programs that are currently operating in San Francisco presented their models and outcomes; written material from programs outside of San Francisco was reviewed and discussed. In addition, the Workgroup reviewed literature regarding the "broken windows" theory and other philosophies utilized on city streets to address problem behavior. The Work group then developed recommendations specifically tailored to strategies that would work in San Francisco.

Problem Definition

In order to define the problem, the Work Group developed a summary of undesirable behaviors:

- Drug Dealing
- Aggressive Panhandling
- Intimidation, Touching, Spitting
- Blocking Sidewalk
- Strong-arm Robbery
- Public Urination/Defecation
- Littering
- Shooting/Knifing
- Drinking/Using Drugs

- Unpredictable Behavior

Recommendation Guidelines

1. Focus on our core outcome: to analyze and understand the key issues impacting safety on our streets and formulate recommendations for needed improvement with the goal of creating a safe environment on our streets for everyone;
2. Be consistent with our agreement to develop a few pilot projects in one or more neighborhoods;
3. Be concrete, practical and reasonable enough that the group would likely be able to reach consensus on it;
4. Be likely to be approved by the Agency and/or Commission responsible for implementing it;
5. Implementable within a one-year timeframe.

LITERATURE REVIEW

Street Access for Everyone – Recommendations of the SAFE Workgroup (December 2006 – City of Portland)

This Portland group was convened to “assess citywide problems associated with street disorder and sidewalk nuisances and recommend strategies for problem-solving.” The group’s goals were stated as:

1. Help visitors and locals understand, enjoy an active, diverse city.
2. Make daytime life less hostile to those without a home.
3. Help “law enforcement” be effective while consistent with community values.
4. Establish a common or consensus way to measure the problem & progress.

The document included five recommendations:

1. Implementing of a Day Access/Resource Center Plan that meets the minimum criteria set forth in the report.
 2. Providing adequate public seating and benches in “High Pedestrian Traffic Areas”. This new seating was to be in the proximity of places where persons elect to sit or lie on the sidewalk.
-
1. Implementing a public restroom plan.
 2. Letting the “Obstructions as Nuisances” ordinance expire and enacting a “High Pedestrian Traffic Area” ordinance. Some of the specifics of the new ordinance were:
 1. No sitting or lying on a public sidewalk between 7am and 9pm.
 2. Belongings must be kept no further than two feet away from their owners and must be moved out of the way if they are obstructing pedestrian traffic.
 3. Animals must be kept on a leash, no further than two feet away from their owners and must be moved out of the way if they are obstructing pedestrian traffic.
 4. Violation of the ordinance results in a citation into a Community Court, and is not an arrestable offense.

5. Only law enforcement officers who have had specific training may issue these citations.
6. Each person receiving a citation will receive information on social services.
1. Creating an oversight committee for implementation of the core workgroup consensus.

The document's authors proposed the following to measure progress towards the goals:

1. Expand the City Auditor's surveys on neighborhood safety to cover more of the issues raised by the group.
2. Compile existing measurements that document the scope of street problems, and implement additional measurement tools, if necessary.

Finally, the document encourages law enforcement to work with the community to identify repeat problem locations and repeat offenders, and develop specific plans to manage them.

Fixing Broken Windows: Restoring Order and Reducing Crime in Our Communities,
Kelling & Coles (1996).

Theory

A neighborhood with a number of broken windows communicates to passersby that nobody in that neighborhood cares, and that no one with authority to act is looking out for the neighborhood. Broken windows send a powerful message that if you go break some more windows, nobody is going to do anything about it, and in a broader sense, anything goes in that neighborhood.

Theory in Action

The level of disorder counts as much as crime. Police should pay as much attention to public order and the elimination of public disorder, by getting rid of prostitutes and gangs on street corners, by painting out the graffiti, by making people feel comfortable around their homes. These actions would do a lot for people, and possibly – according to this theory – drive down the crime rate. If cities and neighborhoods take these actions, in fact, the crime rate does come down, because “good people are on the streets and bad people find it hard to take advantage of them”.

Theory Claims

- Further petty crime and low-level anti-social behavior will be deterred;
- Major crime will, as a result, be prevented

Program Implementation - Police Foot Patrols

Police Foundation in Washington, DC evaluated foot patrols over a 5-year period. Finding: no reduction in crime rates, but residents in foot patrol neighborhoods felt more secure and took fewer steps to protect themselves; residents held a more favorable attitude toward police; officers had higher morale, and reported greater job satisfaction and more favorable attitude toward citizens in their neighborhoods than did officers in cars.

These neighborhoods are considered "safer" even when crime rates have not gone down because residents are frightened by crime, especially crime involving a sudden violent attack by a stranger, and they are fearful of being bothered by disorderly people, such as panhandlers, drunks, addicts, rowdy teenagers, prostitutes, loiterers, and the mentally ill. Foot patrols elevated the level of public order in specific neighborhoods. Specific Rules for Neighborhood Officers (arrested for vagrancy if broken):

- Drunks/addicts could sit on stoops, but not lie down
- Permit drinking on side streets not main intersection; bottles must be in paper bags
- Begging, bothering, talking to people waiting at bus stop strictly forbidden
- Dispute between businessperson/customer: businessperson assumed right
- Noisy teenagers told to keep quiet.
- Someone giving unsatisfactory answers regarding means of support or business in neighborhood is sent on his way.

Examples Supporting Theory

- Car in Palo Alto and Bronx: without license plates and hood up. Bronx car attacked within 10 minutes: valuables removed, etc., and then car trashed. Most "vandals" were well-dressed, clean-cut Caucasians. Palo Alto car untouched for a week; then the researchers damaged the car by smashing part of it and subsequently car was destroyed by clean-cut Caucasians.
- Baltimore housing project tenants' greatest fear was expressed by those living in buildings where disorderliness/incivility, not crime, were the greatest.

NYC Implementation Examples

- Implemented zero tolerance of subway fare-dodging, public drinkers, uriners, and squeegee men; and easier arrestee processing methods and background checks on all those arrested.
- Results: After the program was rolled out in 1985 rates of both petty and serious crime fell suddenly and significantly and continued to drop for the following 10 years.

Challenges to NYC Outcomes

"Correlation is not causation": major crimes also dropped in many other US cities during the 1990s including those without "zero tolerance" policies. "Zero tolerance" effect on serious crime difficult to disentangle from other initiatives occurring around same time in NYC:

- Police reforms
- Movement of 500,000 people from welfare to work
- Housing vouchers enabled poor families to move to better neighborhoods
- Waning of crack epidemic
- Unrelated growth in prison populations due to Rockefeller drug laws

- Number of males aged 16-24 was dropping due to demographic changes and abortion becoming legal

NYC Police Chief Brattan eliminated several layers of bureaucracy, appointed young and ambitious managers to top positions, and created a bottom-line mentality. He increased the power of precinct commanders and instituted bi-weekly meetings, known as Crime Control Strategy meetings, or Comstat (for computer-statistics) meetings, where the top administrators would question precinct commanders on crime in their beat.

Academic Criticism

Bernard Harcourt (University of Chicago law professor) and Jens Ludwig (Georgetown University public policy professor):

The two academics challenged the broken windows theory using the same New York City police precinct data that Kelling believes validates the theory. The data do show a dramatic reduction of incidents in high-crime precincts, but Harcourt and Ludwig attribute this reduction to what they call "Newton's Law of Crime: what goes up, must come down (and what goes up the most, tends to come down the most)."

Harcourt and Ludwig draw on the work of criminologists who have seen the rise and fall of crime rates in the '80s and '90s as a result not of a new type of policing, but of the crack epidemic. When crack first hit the market in the 1980s, it was a lucrative business, but as it became more available, the price dropped dramatically, making dealers think twice about risking their lives to make ever-lower profits, and reducing the incidence of violent crime.

Harcourt and Ludwig also rely on the results of a Department of Housing and Urban Development program to suggest that neighborhood disorder has no effect on criminality. In the HUD program, public housing tenants from cities including New York and Boston were moved from inner-city projects to safer, more orderly neighborhoods. Contrary to what broken windows would suggest, there was no decrease in criminality among the relocated public-housing tenants: They continued to offend at the same rates in their new, more orderly neighborhoods as they did in their disorderly ones.

"There's no good evidence that disorder causes crime [or] that broken windows policing reduces serious crime in a neighborhood," Harcourt says.

David Thatcher (Univ. of Michigan):

Notes that more sophisticated studies of the relationship between disorder and crime now exist and concludes that the relations between disorder and serious crime is modest and also that the relationship is largely an artifact of more fundamental social forces.

John Lott (economist published in University of Chicago Press):

Found that policing policies were not consistent across different types of crime; rather, the pattern is almost random. Concluded that broken windows approach is actually associated with murder and auto theft rising and rapes and larceny falling. Increased arrest rates, application of affirmative action policies in hiring of police, and right to carry laws were more important in explaining the changes in crime rates.

Steve Levitt, Stephen Dubner (Freakonomics):

Abortions meant women least able to raise kids (poor, addicts and unstable) were able to get abortions so number of children being born in broken families was decreasing.

Most crimes in NY are committed by 16-24 year old males; so decrease in this demographic lead to decrease in crime rate.

Robert Sampson and Stephen Raudenbush (1999 analysis, "Systematic Social Observation of Public Spaces: A New Look at Disorder in Urban Neighborhoods")

Using trained observers who drove a sports utility vehicle at five miles per hour down every street in 196 Chicago census tracts and randomly selecting 15,141 street sides, they were able to collect precise data on neighborhood disorder. The evidence they found for a disorder-crime nexus was weak or nonexistent in 4 out of 5 categories of crime.

Paul S. Grogan and Tony Proscio (Comeback Cities: A Blueprint for Urban Neighborhood Revival):

The authors made a "decision to use arrests for misdemeanors as our measure of 'broken windows' enforcement." The broken windows theory, it turns out, is not so much about public order, as it is about arresting people for misdemeanor and public disorder offenses. Tough "public order" police tactics, while perhaps "politically popular," are nevertheless an "analytically weak strategy to reduce crime."

Daniel Macallair (Shattering "Broken Windows": An Analysis of San Francisco's Alternative Crime Policies):

Similar crime rate declines were occurring in other cities around the country. These equally dramatic crime rate decreases occurred despite the absence of "broken windows" policies. The most notable antithesis to New York City is San Francisco. In recent years, San Francisco adopted less strident law enforcement policies that reduced arrests, prosecutions and incarceration rates. San Francisco registered reductions in crime that exceed or equal comparable cities and jurisdictions - including New York.

San Francisco on the other hand utilized an alternative approach to crime that stresses alternative sentences and community involvement. San Francisco experienced a larger decline in reported crime than most comparable national cities while enforcing these alternative policies. Since 1992, San Francisco has outperformed New York City in violent crime rate declines. For example, in reported violent crime between 1992 and 1998 San Francisco's rates decreased 47% while New York's rate declined 46%.

William Bratton and George Kelling Response to Criticism:

In Los Angeles, where Bratton has been chief since 2002, the LAPD has reduced crime by 26 percent overall and homicides by 25 percent in three years, using many strategies, but always emphasizing order-restoration. "Fixing broken windows is not the panacea for all crime problems. But it's a proven base on which to build. Research suggests that citizens — especially minorities — appreciate it; it reduces fear; and it has an impact on serious crime".

City of Disorder: How the Quality of Life Campaign Transformed New York Politics, Vitale (2008).

The book provides a comprehensive analysis of the efforts to address disorder on the streets of New York City. Social problems that were targeted include prostitution, graffiti, homelessness, and panhandling. The book discussed the manifestation of the new "quality of life paradigm of urban social control": 1) transition from socially inclusive, rehabilitative oriented policies to socially exclusive punitive ones; 2) rejection of government centered approaches to social problems in favor of market and community-based efforts; 3) a move

away from social tolerance of individual and group difference and toward a communitarian outlook.

Proposition M: San Francisco's Aggressive Panhandling Ordinance

A) What's prohibited

- Aggressive panhandling in public places;
- Panhandling within 20 feet of an ATM machine or check-cashing business;
- Panhandling anyone in vehicles on a street or highway on-ramp or off-ramp;
- Panhandling in a parking lot or on public transportation.

B) Aggressive panhandling is defined as:

- Causing fear in a person being solicited or using violent or threatening gestures;
- Persisting once a person has refused, or following a person while panhandling;
- Purposely blocking a vehicle or person.

C) Punishment for violating the law:

- Referral to a drug-rehabilitation or mental health counseling program;
- Three months' community service or jail time if cited three times in a year.

KEY FINDINGS

As shown in Appendices C (List of Presenters) and D (Source Material Posted on Website), the Workgroup reviewed a wide range of data and perspectives in its work.

Law Enforcement

Because the Courts act as the hub of the criminal justice process, they will also be the focal point of the Work Group recommendations regarding law enforcement and the justice system. Courts "rely on police and prosecutors to conduct investigations, make arrests and bring charges; they rely on prosecutors and defense attorneys to sort through the facts and help protect individual rights; and they rely on probation, corrections and parole officials to deliver and oversee punishment."^[1]

The Streets and Neighborhoods Workgroup studied the link between order maintenance and crime prevention, and noted important writings by those that believe that serious street crime flourishes in areas in which disorderly behavior goes unchecked.^[2] Today, twenty-five years after the "broken windows" theory was first introduced, there is considerable debate regarding the current utility of the concept.^[3]

Because the principles of problem-solving justice are "dedicated to the notion that defendants should be treated as individuals, [and] not numbers on a page."^[4] The

following are findings presented to the work group by representatives of the criminal justice community in meetings on July 15th and 29th, 2008.

1. Sixty-Nine "aggressive panhandlers" are responsible for 76% of the 1272 citations issued by the Police Department from January 2007 to May 2008.[5]
2. The issuing and subsequent processing of "quality of life" infraction citations to disenfranchised people use a disproportionately large amount of resources relative to the value of the eventual resolution of the citations.
3. The Courts, Prosecutors, Defense Counsel, Public Defender, Probation and other interested criminal justice agencies are interested in improving outcomes for those entering the criminal justice system by reducing recidivism.
4. The San Francisco Police Department through the Police Academy provides 40 hour training on behavioral health interventions, not unlike the Substance Abusing/Mentally ill Court Project CIT (Crisis Intervention Team) training in Athens County, Ohio, a problem-solving best practice.[6]
5. The San Francisco District Attorney as well as other San Francisco agencies involved with law enforcement, are interested in providing "off ramps" to the traditional prosecution of defendants, which could represent opportunities for collaborative strategies to provide alternatives to incarceration. The Community Justice Center is cited as a viable hub for these alternative programs.
6. Problem-Solving Courts, such as drug courts and community courts, have helped decrease recidivism, reduce crime, improve coordination among justice agencies, enhance services to victims, and increase trust in the justice system.[7]

Behavioral Health Court

1. People with mental illness are over-represented in the criminal justice system in San Francisco. Many individuals with a serious mental health disorder have their first contact with a mental health professional while in the criminal justice system.
2. Clients in Behavioral Health Court are: primarily homeless individuals, disproportionately persons of color, high-end users of both the criminal justice system and Psychiatric Emergency Services, and incarcerated at the time of entry into the program.
3. Participation in BHC is voluntary and the defendant must be willing to participate in community treatment.
4. BHC provides a continuum of care beginning with in-jail services, transitional care prior to release, and early release into the community. The continuum of care concept is one of the most innovative in the country and is responsible for enhancing a client's successful return to the community.
5. Study Results: By 18 months after graduation, the estimated risk of being charged with any new offense was about 40% lower for BHC graduates than that of similar detainees who did not participate in the program. The risk of BHC graduates being charged with a new violent crime was about 54% lower than that of other comparable detainees. ("Effectiveness of a Mental Health Court for Reducing Criminal Recidivism and Violence" in press American Journal of Psychiatry, September 2007, Dale McNeil, Ph.D. Professor of Clinical Psychology. UCSF School of Medicine.)

Community JusticeCenter

1. Specialized court systems have the potential to act as holistic interveners offering services rather than jail time, as compared to punitive bodies reinforcing cycles of criminal behavior.
2. Court models focusing on higher level misdemeanors and felonies see an important, and often excluded, segment of the population and achieve more substantive markers of success.
3. Community-based courts allow judges to focus on individual cases rather than "cookie cutter" justice.

Drug Court

1. Participants in models such as the Drug Court already employed in San Francisco showed a marked reduction in recidivism rates when compared to those going through the traditional court system.
2. When factoring in outcome benefits, various models of Drug Courts saw savings of up to \$15,000 per participant.

Quality of Life

1. The Central Market Community Benefit District Community Outreach Survey Report[8] found that almost two-thirds of the survey participants chose "urine/feces" as their most important quality of life issue in the District, with over half choosing alcohol and aggressive panhandling as an anti-social activity they had witnessed in the District. (Survey, p.2) More affordable housing was suggested by an overwhelming majority (58%) of the survey participants as the one thing that would encourage them to spend more time in the District, along with more plants and flowers (55%) and more street improvements (39%).

RECOMMENDATIONS

Criteria

1. Focus on our core outcome: to analyze and understand the key issues impacting safety on our streets and formulate recommendations for needed improvement with the goal of creating a safe environment on our streets for everyone;
2. Be consistent with our agreement to develop a few pilot projects in one or more neighborhoods (i.e., Tenderloin, South of Market, Yerba Buena Gardens, Mid-Market, Union Square, Civic Center, Financial District);
3. Be concrete, practical and reasonable enough that the group would likely be able to reach consensus on it;
4. Likely to be approved by the Agency and/or Commission responsible for implementing it;
5. Implementable within a one-year timeframe.

Recommendations

- 1) Homeless Connect: Open a Homeless Connect Center as a bridge between the Community Justice Center and multi-departmental street outreach staff. Ensure that it is a low threshold center that offers health and hygiene, safety from the streets, crisis intervention, and engaging people in behavioral health/housing opportunities. Include storage, showers, phones, and bathrooms.
- 2) HOT Team Enhancement: Empower HOT Teams to escort homeless individuals to the appropriate homeless services facility. Ensure city policy and direction does not deteriorate

vital trust building between client and worker.

- 3) Supported Employment: Create more supported employment programs linking target population to competitive employment; and create incentives for employers to hire the target population. Enhance employment training opportunities including alternative income generating activities for this population. Offer registration of Street Sheet vendors and sellers. Link Tenderloin Employment Center to the Community Justice Center.
- 4) Home Team Program: The Dept. of Public Health and Fire Department should continue the development and deployment of the Home Team and standardize a training program to enhance the program with more staffing.
- 5) Drug Free Zones: Establish "drug-free" zone(s) in the areas with the highest concentration of drug crimes and arrests. Penalties for drug dealing within the zone(s) would be significant with second/third offenses leading to longer sentences.
- 6) High Impact Zone(s): Establish Zone(s) that have special enforcement of drug laws, aggressive panhandling, sitting/lying on sidewalks, and quality of life crimes. Zone(s) will be defined as high pedestrian traffic areas where unobstructed passage is important for business, residents and visitors.
- 7) Create Pre-Booking Diversion Program: Implement a Pre-Booking Diversion program. this would impact people who do not get cited or arrested but are diverted from any criminal justice action by the police.
- 8) Community Justice Center: Implement the Community Justice Center (CJC). The CJC should link the criminal justice problem with the appropriate services utilizing the Homeless Connect model and prioritizing the services for the target population (i.e., medical detox for chronic inebriates) where appropriate.
- 9) Address Urinating/Defecating in Public: map current bathrooms in high impact neighborhoods and consider increasing bathrooms.
- 10) Permanent Affordable Housing: engage in six month campaign to raise money from SF corporations to be matched dollar for dollar by the city for the purpose of investing in permanent affordable housing. Funding could also be used to draw down rents for city funded units, such as Care Not Cash and Direct Access to Housing.

Appendix A: List of Workgroup Members

Appendix B: List of Workgroup Meetings

Appendix C: List of Presenters

Appendix D: Source Material Posted on Website

[1]Principles of Problem-Solving Justice (2007) Center for Court Innovation, Best Practices, p. 6.

[2]The police and neighborhood safety, Broken Windows, Wilson & Kelling.

[3]See, "Do 'Broken Windows' Programs Reduce Major Crime?" (2006) Thoma, Economists View; and "There are No Cracks in the Broken Windows," Bratton & Kelling, (2006) National Review.

[4](*Id.* p.7.)

[5]Quality of Life- Frequent Offenders Database, June 24, 2008; MPC Sec. 120-2 (Aggressive Solicitation)*

[6]Expanding the Use of Problem Solving, Center for Court Innovation, Best Practices - The U.S. Department of Justice's Community-Based Problem-Solving Criminal Justice Initiative. (2007), Wolf.

[7]Expanding the Use of Problem Solving. The U.S. Department of Justice's Community Based Problem Solving Criminal Justice Initiative, (2007) Wolf.

[8]The Central Market Community Benefit District Community Outreach Survey Report Part I (August 2007) Urban Ecology

