

Do police count all burglaries? - Kunkle says intent must be clear in break-ins as some fault classification system

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One night this summer, Tony Briones fell asleep on the living room couch inside the apartment he shares with his wife and son. He awoke to the sound of someone kicking in their front door.

Briones stood up and saw a stranger stepping into his apartment.

"The moment that he saw me get up, he basically ran off," Briones said. The Oak Cliff man felt he was the victim of an attempted burglary.

Dallas police didn't agree. They classified the July 5 incident as a case of vandalism.

Each year, the Dallas Police Department classifies hundreds of similar break-ins this way. As long as the intruders leave empty-handed, such incidents are often not labeled burglary attempts.

DPD does this even though federal guidelines instruct police to report such break-ins as burglary attempts unless the "investigation clearly established that the unlawful entry was for a purpose other than to commit a felony or theft." Dallas Police Chief David Kunkle said officers report burglaries only when there is solid evidence of what an intruder intended to do. Breaking a lock or kicking in a door may lead to assumptions of intent, he said, but they do not constitute evidence of that intent.

"Officers cannot assume what the criminal intent of the person was," Kunkle said.

Kunkle has made correcting crime reporting practices a focus of his administration. He has made major changes to what he has said was a broken reporting system. The reforms have been one factor in bringing the city's crime numbers down.

The department's handling of burglary reports has not served to reduce Dallas' reported year-over-year crime rates. It has reported burglaries in a similar way for decades. Kunkle said changes he has made have served to increase the number of reported burglaries.

Even so, the department's reporting policy clearly cuts Dallas' reported burglary rate below what it might be. A one-week sample of cases examined by The News estimated the reduction for that week at about 10 percent.

State and federal experts consulted by The News said that although police have broad discretion to classify crimes, many of these types of incidents should be categorized as burglaries.

Bolt cutters and an ax

The night after the break-in at the Briones home, masked men used bolt cutters and an ax on the front doors of a southeast Dallas convenience store supply business. Security cameras rolled as the men tried to break in.

"They knocked down the cameras, and that's when everything went blank," said Iyad Elaydi, who co-owns the business, I&H Wholesale.

The men never made it inside, and they fled before Dallas police responded to the store's alarm. Elaydi believes they intended to steal from his business, which repeatedly has been victimized by burglars and robbers.

"They classified it as criminal mischief, which basically gives no regard for whatever happened," Elaydi said.

When an attempted break-in is classified as vandalism rather than burglary, it effectively vanishes from national reports on Dallas' crime rate. This is because the nationally recognized system for collecting crime statistics - the Uniform Crime Reporting Program, or UCR for short - counts only certain offenses such as murder, rape, robbery, theft and burglary in a city's crime rate. Many other offenses, such as vandalism, are not included.

So far this year, police have classified about 16,000 crimes as vandalism cases. To get an idea of how many might actually have been attempted burglaries, The News examined one week's worth, those reported between July 1 and July 7.

Of the more than 400 recorded cases of vandalism that week, more than 50 were attempted or successful break-ins. They involved criminals kicking in doors, smashing windows and prying locks to get into homes and businesses.

If these reports had been added to that week's 469 recorded burglaries, it would have raised the tally by more than 10 percent.

The News presented seven crime scenarios to the FBI, which administers the UCR program and sets its guidelines. The scenarios were representative of those that reporters found in the July DPD reports.

The FBI experts are reticent to second-guess the investigative findings of local police departments. But the bottom line, they said, was that the scenarios most likely fall into the category of burglaries.

Presented with the reports from July, DPD commanders conceded that a few were classified incorrectly. They stood behind the rest of them.

"On the whole, we have a confidence in what we were doing," said Deputy Chief Randy Blankenbaker, who oversees Dallas police's research analysis and special projects division.

Vandalism cases

In addition to the reports from July, The News looked at other cases categorized as vandalism from throughout the year. In about 100 of these incidents, officers at the scene assessed them as burglary attempts, but investigators later reclassified them as vandalism. These included cases in which intruders tried to break open cash registers and safes.

Kunkle said Dallas police have classified vandalism and attempted burglaries the same way for decades.

"The investigators are doing what they've done for probably at least 30 or 40 years, but at least since 1991," the chief said. "We looked at those kinds of situations and found about the same rate each year, or every single year, with some variation but not much."

Kunkle said he's done nothing to decrease the number of such incidents that get counted as burglaries. To the contrary, he said he made one policy change last year that increased the tally. He instructed investigators to classify cases as burglaries any time an intruder rummages through someone's belongings.

During the examination by The News, reporters identified about a dozen cases involving rummaging. One of those had been classified as a burglary, while the others continued to be counted as vandalism.

The chief presented The News a copy of a crime reporting audit done in spring 2007 by the FBI. Among the cases reviewed by auditors, the chief said, were some similar to those flagged by the newspaper.

The FBI has conducted many audits "going back a lot of years where they've had no issues with that," Kunkle said.

Although the 2007 audit found that the department was neither underreporting nor overreporting crime, DPD officials saw some flaws.

A couple of months after the FBI review, Dallas police commanders announced that they had discovered they'd been categorizing aggravated assaults incorrectly for years, causing significant overreporting of the offense. The fixes they made to their system resulted in an immediate 24 percent drop in that category.

Kunkle says the FBI's training and auditing on UCR issues are too vague and contradictory to create a system where all cities report crime statistics the same way.

"I think that people have built this pretense around UCR as having these standards - and I'm sure these comments, if you print it, I'll get the wrath of the FBI and all their auditing teams," the chief said. "But it's a pretense not based in reality."

Police departments, criminologists, city planners and politicians across the nation rely on the UCR program to keep track of crime within cities and states.

Though the FBI cautions against it, cities - including Dallas - inevitably use the numbers to look at how they rank against other municipalities from one year to the next.

City politicians demand lower numbers from their police chiefs, who in turn demand them from their subordinates.

"To the extent that there is pressure, that pressure is universal," said Timothy Bray, criminologist and director of the Institute for Urban Policy Research at the University of Texas at Dallas. "I think it's conceivable that departments play liberally with their crime statistics due to the pressure of a statistics-driven society that looks at these seven numbers to say you're doing good job or not."

A matter of intent

The sticking point on how to classify an attempted break-in is in determining the intruder's intent. If a suspect is trying to break in to commit a felony or theft, it should be classified as a burglary, whether he is successful or not, according to the FBI's guidelines.

If the intruder steals something, the decision is easy. It was a burglary, and Dallas police classify it that way. But often an intruder is interrupted by a victim, an alarm, or police, or for some other reason leaves empty-handed.

That's when deciding how to classify the crime gets trickier.

Kunkle contends that in many cases, it is impossible to know the intruder's intent and officers are trained not to make assumptions.

"Generally, the way that police officers operate, we deal in what we know," the chief said. Many police officers point out that the Dallas County prosecutors won't take such cases as burglaries because they can't prove that the intruder intended to steal or commit another felony.

Police departments are supposed to refer to a federal manual called the Uniform Crime Reporting Handbook for guidance in submitting their crime numbers to the FBI. According to the manual, departments should not rely on the decisions of prosecutors in their crime reporting.

The manual says that unless evidence shows a break-in was for some other purpose, it should be classified as a burglary.

"The UCR would suggest that unless your investigation proves otherwise, then you assume that the motive was burglary," said Bray, who is also a former supervisor of Illinois' UCR program.

Kunkle disagrees.

"It's not clear," he said. "That's not what they instruct, not what they audit around."

In addition to giving the seven crime scenarios to the FBI, The News also queried the Texas Department of Public Safety, which collects crime statistics from police departments in Texas on behalf of the FBI.

The program administrator for the state agency's UCR section said the scenarios appeared to be burglaries.

Kunkle took issue with her response.

"I think the state lady weighed in without having enough information about these scenarios," the chief said. "I think she has created a model that isn't consistent with the training they've given us, isn't being followed by many of the departments in the state of Texas."

The News also surveyed some other big-city police departments. All of those who responded, including Houston, Baltimore, and Los Angeles, said they would classify the break-in scenarios as burglaries.

Yet Kunkle said he doubts the agencies would actually classify the crimes that way in reality.

"I don't think the answers you got are the practices in the department," he said.

But Jeff Godown, officer in charge of crime analysis for the Los Angeles Police Department, said the reporting guidelines are clear to him, and his department follows them.

"If a door's kicked in and there's no property missing, do you know whether that's a vandalism or a burglary? - No," Godown said. "But people don't, in my experience here in L.A., risk going to jail just for kicking in a deadbolted door."

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COMPARISON

Agencies nationwide address multiple scenarios

1 An intruder kicks in the door to a home, and as the woman inside hears footsteps coming toward her, she begins to scream. Her screaming apparently scares off the intruder, who rushes back out the door. Officers find no other relevant evidence.

2 An intruder pries open the door of a warehouse. Later, officers find muddy footprints inside, but there doesn't seem to be anything missing. Officers find no other relevant evidence.

3 Officers respond to a burglar alarm at a home. They find a large window shattered and a trail of blood leading through the house and out the back door. The officers conclude that the intruder cut himself on broken glass as he entered, but left before completing whatever act he intended within the home. They find no evidence to determine what sort of act that might have been.

4 Someone breaks a lock to an office building. An alarm sounds, and police respond. Officers find the lock broken and the door open, but no sign of whether the suspect entered the building. They find no other relevant evidence.

5 A woman returns home from work to find her door kicked in. She finds nothing out of place inside. Officers cannot determine whether anyone entered. They find no other relevant evidence.

6 A man is in his home. He hears noises and finds someone lifting his window upward. The suspect flees when he sees the resident. Responding officers find no other relevant evidence.

7 A business owner returns to his business to find damage to his door frame and lock. It appears to responding officers that someone tried to pry the door open but was unsuccessful. They find no other relevant evidence.

*The following agencies said they would most likely classify the scenarios as burglaries or attempted burglaries: Miami-Dade; Los Angeles; Houston; San Jose, Calif.; Baltimore; Carrollton; DeSoto; Fort Worth (excluding No. 6); Mesquite; the FBI; and the Texas Department of Public Safety.

*The following agencies said they would most likely classify the scenarios as criminal mischief or criminal trespass: Dallas, Grapevine (excluding No. 6) and Grand Prairie (excluding No. 6).

*Footnotes: Grapevine and Fort Worth said No. 6 was not an offense. Grand Prairie said No. 6 was an attempted burglary.

*Agencies that did not respond to the survey: Arlington, San Antonio, Plano, Austin, New York, Chicago, San Diego, Phoenix, Philadelphia, Detroit, Flower Mound, Frisco and Garland.

A question of interpretation?

Police departments use the Uniform Crime Reporting Handbook to make decisions about how they report their crime numbers to federal authorities.

-Here's what the handbook says about distinguishing between vandalism and burglary:

"A forcible entry or unlawful entry in which no theft or felony occurs but acts of vandalism, malicious mischief, etc. are committed is not classified as a burglary provided investigation clearly established that the unlawful entry was for a purpose other than to commit a felony or theft."

- This is how the handbook passage is interpreted by Timothy Bray, director of the Institute for Urban Policy Research at the University of Texas at Dallas, a criminologist and former supervisor of Illinois' UCR program:

"The UCR would suggest that unless your investigation proves otherwise, then you assume that the motive was burglary. That's the way it sounds to me."

- This is what Dallas Police Chief David Kunkle says about the passage:

"It's not clear. That's not what they instruct, not what they audit around. And it may be clear to you looking at one page out of a training manual or guidelines, but that's not the way it works out in the field. And there are many departments - none of which want to jump in the boat with us, and I'm not going to give you their names - who do exactly what we do."

DigitalExtra

WATCH VIDEO of an attempted break-in at I&H Wholesale.

dallasnews.com/video

• Caption: PHOTO(S): 1. (MONA REEDER/Staff Photographer) Iyad Elaydi co-owns a Dallas business that was targeted this summer by men who tried to break in but never made it inside. The case was classified as criminal mischief, "which basically gives no regard for whatever happened," Elaydi says. 2. (COURTNEY PERRY/Staff Photographer) A man kicked in Tony Briones' apartment door, but fled when he saw Briones, who felt he was the victim of an attempted burglary. Police classified the case as vandalism. CHART(S): 1. COMPARISON Agencies nationwide address multiple scenarios. 2. A question of interpretation? 3. DigitalExtra.

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