



# City of San Antonio

## Agenda Memorandum

**File Number:**16-2898

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**Agenda Item Number:** 2.

**Agenda Date:** 5/4/2016

**In Control:** Criminal Justice, Public Safety and Services Committee

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**DEPARTMENT:** Municipal Court

**DEPARTMENT HEAD:** John W. Bull, Presiding Judge

**COUNCIL DISTRICTS IMPACTED:** Citywide

### **SUBJECT:**

A Municipal Court update regarding compliance with items listed in U.S. Department of Justice letter, dated March 14, 2016.

### **SUMMARY:**

The following is an update for the Criminal Justice, Public Safety and Services Committee on judicial operations as they relate to the concerns listed in the U.S. Department of Justice ("DOJ") letter dated March 14, 2016. The San Antonio Municipal Court ("Court") has the personnel, policies and procedures in place to ensure that the concerns raised by the DOJ do not occur.

### **BACKGROUND INFORMATION:**

#### **The U.S. Department of Justice Letter:**

As a result of the DOJ investigation into police and court practices in Ferguson, Missouri, the DOJ issued a letter to all state and local courts in the United States which listed common practices the DOJ deemed "unlawful" and "run afoul of the United States Constitution or other federal laws." The practices identified by the DOJ can be summarized into the following areas:

- 1) Incarceration - Courts must not incarcerate a person for nonpayment of fines or fees without conducting an indigency determination and establishing that the failure to pay was willful; Courts must consider alternatives to incarceration for indigent defendants unable to pay fines and fees; Courts must not employ bail or bond practices that cause indigent defendants to remain incarcerated solely because they cannot afford to pay for their release;

- 2) Access to Courts and Adequate Notice - Courts should not condition access to a judicial hearing on prepayment of fines or fees, and Courts should provide meaningful notice when enforcing fines and fees;
- 3) Warrants - Courts must not issue warrants for failure to pay without providing adequate notice to a defendant, a hearing where the defendant's ability to pay is assessed; and other basic procedural protections; and
- 4) Staff - Courts should safeguard against unconstitutional practices by court staff and private contractors.

### **Practices of San Antonio Municipal Court:**

While questionable practices have been occurring in other courts around the country, the Court has ensured that constitutional and statutory protections are followed when dealing with all citizens.

- 1) Incarceration - The most important practice of the Court as it relates to the concerns raised by the DOJ is that the Court does not commit any defendant to jail for non-payment of fines and fees. Instead, the Court routinely uses alternatives to incarceration to assist individuals in dealing with court obligations. After assessing an individual's ability to pay, judges will reduce monies owed, grant community service, extend time to pay, or suspend fines and fees upon making a determination of indigence. Both the city of Amarillo and the city of El Paso have been sued in federal court for improper jail commitment practices with dealing with indigent individuals.
- 2) Access to Courts and Adequate Notice - In calendar year 2015, criminal case filings amounted to 225,223. Of those filings, eighty-two percent of the cases were traffic offenses. Most of the traffic citations are issued by San Antonio Police Department officers utilizing electronic ticket writers or paper citations. The electronic/paper citations contain all of the notices required by Texas law. The citation informs a defendant of the precise charge against the defendant, the amount owed if they choose to plead guilty, the date of the court arraignment hearing, the availability of alternate means of payment, the availability of alternate means to make an appearance, and the availability of alternate means to prevent the charge from appearing on the defendant's driving record. Similar notices and warnings appear on the court's non-traffic misdemeanor citations.
- 3) Warrants - In 35% of the traffic cases heard by the court in 2015, the defendant requested and was granted from the judge a driver safety course or deferred disposition. Both orders, upon successful completion, allow for the individual not to have a traffic conviction on their driving record. If a defendant fails to comply with the terms of the order, the case is set for a "show cause" hearing. Notice of the show cause hearing is mailed to the defendant. At the show cause hearing, the defendant is permitted to explain to the court why all the requirements imposed by the court have not been met. If good cause is shown, the court can allow additional time for the requirements to be submitted. If the defendant fails to appear at the show cause setting, it is the practice of the court to issue a warrant. Individuals who need an extended period of time to pay their court obligations are provided a payment plan that meets their ability to pay and be successful. These individuals are assigned court staff who will send reminders and place telephone calls to them and work with those struggling to pay. Several notices are sent to individuals who are non-compliant before the court will issue a warrant for non-payment.
- 4) Staff - The DOJ warned that courts must safeguard against unconstitutional practices by court staff and private contractors. The DOJ indicated special concern with courts where a judge may preside a few hours or days per week which leaves clerks or probation officer to conduct most of the court's business. The San Antonio Municipal Court is staffed with ten full-time judges and four part-time judges. There should never be a time when the courthouse is open that a judge is not available to conduct the court's business. Further, as discussed at previous committee meetings, the court has implemented the Municipal Court Clerk Certification Program, which requires all court clerks receive forty hours of education and pass a four-hour exam in an eighteen month period. San Antonio is the first large city to

require all court clerks achieve certification. This program will raise the level of professionalism and competence in the court's staff and assist in the fair and impartial administration of justice.

**ISSUE:**

The San Antonio Municipal Court ("Court") has the personnel, policies and procedures in place to ensure that the concerns of violations of the United States Constitution and other federal laws raised by the DOJ do not occur.

**ALTERNATIVES:**

No alternatives - for briefing purposes only.

**FISCAL IMPACT:**

There is no fiscal impact.

**RECOMMENDATION:**

No action required. This item is for briefing purposes only.