



City of San Antonio

Agenda Memorandum

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In Control: Audit and Accountability Committee

AUDIT COMMITTEE SUMMARY

February 20, 2018

Municipal Court Family Violence Class C Misdemeanor Reporting

Report Issued February 15, 2018

Audit Objective

Determine if convictions involving family violence within our municipal courts are being appropriately reported to relevant government agencies.

Background

Municipal Court has jurisdiction over violations of City ordinances and concurrent jurisdiction with justice of the peace courts over fine-only Class C misdemeanors (the least serious misdemeanor) such as speeding, public intoxication, and family violence. State laws require all municipal courts in Texas to file reports with certain state agencies reporting certain convictions. These reports help courts to enforce appearance and payment of fines in courts, and build the defendant's criminal record to be used by other courts if the defendant is later charged with another offense. One state agency that requires reporting from all municipal courts is the Texas Department of Public Safety (DPS).

Reports made to DPS are incorporated into the Criminal Justice Information System (CJIS) which is shared with the National Instant Criminal History Background Check System (NICS). A history of certain offenses prevents a person from passing a NICS firearms background check and purchasing a firearm.

Audit Conclusions

State statutes and laws do not mandate reporting Class C misdemeanor convictions. Although Class C misdemeanors are not required to be reported under any legislation, the DPS has recently developed an optional process for Class C family violence related misdemeanors to be reported.

Currently, the reporting of fine-only Class C misdemeanors to the DPS can, in cases of disorderly conduct or public intoxication offenses, result in Class A or B misdemeanor or felony level upgraded charges being filed. A conviction at the Class A or B misdemeanor or felony level would then result in a record that is ultimately incorporated into the CJIS and NICS systems which would prohibit a convicted person from purchasing

a firearm. However, this does not apply to Class C family violence offenses. A change in Texas State criminal laws would be required for family violence related misdemeanor offenses to be eligible for upgrading to a higher charge - the conviction of which would result in a record to the CJIS and NICS systems.

However, state law allows a prosecutor to enhance a Class A family violence bodily injury assault to a third degree felony upon the showing of a prior Class C family violence assault conviction. To enhance, prosecutors must know of the defendant's Class C conviction which is only known if the conviction was reported to DPS.

Accordingly, we recommended that the Municipal Court Clerk continue implementing policies and procedures to voluntarily report family violence related Class C misdemeanor convictions to the DPS. Additionally, we recommended that the Court Clerk work with the City's Government and Public Affairs Department to lobby for changes to state laws which would allow prosecutors to upgrade to Class B (or higher) misdemeanor charges for persons with multiple Class C family violence offenses.

Municipal Court management agreed with our recommendations and has developed positive action plans.