



Kendall County

Data Reporting Improvement Plan

Section I - Legislative Requirement

Article 60.10 of the Texas Code of Criminal Procedure (CCP) creates provisions regarding a data reporting improvement plan applicable to a county that has an average disposition completeness percentage, including both juvenile and adult dispositions, of less than 90 percent. The statute requires the Commissioners Court of such a county to establish a local data advisory board, as described by state law, not later than November 1, 2009. The bill sets forth the persons authorized and required to be included in such a local data advisory board. The statute requires a local data advisory board to prepare a data reporting improvement plan, in addition to other duties prescribed by law, and requires the plan to describe the manner in which the county intends to improve the county's disposition completeness percentage, ensure the county takes the steps necessary for the county's average disposition completeness percentage to be equal to or greater than 90 percent in the first report the Department of Public Safety (DPS) submits to certain state officers and agencies regarding local jurisdiction reporting on or after January 1, 2013, and include a comprehensive strategy by which the county will permanently maintain the county's disposition completeness percentage at or above 90 percent.

The statute requires a local data advisory board established under the bill's provisions, not later than June 1, 2010, to submit to DPS the data reporting improvement plan prepared for the county. DPS, on receipt of a data reporting improvement plan, is required to post the plan on the DPS Internet website. The statute authorizes the public safety director of DPS to adopt rules concerning the contents and form of a data reporting improvement plan. In compliance with this statute, the Kendall County Commissioners Court established a local data advisory board (the Board) on October 26, 2009. See Kendall County Commissioners Court Minutes, Volume 44, p. 84. It is the goal of this advisory board to develop and implement procedures to ensure accurate and complete reporting of all reportable arrests, prosecutor actions, and court dispositions that occur in the county.

Section II - Composition of the Local Advisory Board Members

The Board consists of the following members, selected using the requirements of Article 60.10, CCP. The Commissioners Court chose to create the board using the position titles outlined in Chapter 60, rather than appointing specific individuals to the board, as well as appointing two

members specifically by name. These positions and the individuals filling them are listed as follows:

- Sheriff Roger Duncan (Sheriff's Office), Chief Deputy Matt King (designee);
- District Attorney Bruce Curry (District Attorney's Office), Assistant District Attorney Steve Wadsworth (designee);
- County Attorney Don Allee (County Attorney's Office), Assistant County Attorney Taylor Hamilton (designee);
- District Clerk Kay Pugh (District Clerk's Office), Josie Below (designee)
- County Clerk Darlene Herrin (County Clerk's Office), Denise Pendley (designee);
- Chief Gary Miller (Boerne Police Department), Marisa Dimas (designee);
- Chief Juvenile Probation Officer Joanne Bradley; and
- Chief Adult Probation Officer Grace San Miguel

Section III - Current Process Supporting the Chapter 60 Reporting Requirements

Whenever a reportable arrest takes place in Kendall County, the detention officers at the jail fingerprint the arrestee on an electronic fingerprint system called Live Scan that creates a "tracking number" (TRN), or by ink printing on a carbon copy CR43 form, which also creates a TRN. This tracking number is used by the prosecutor of the case to submit whether the case is accepted or rejected, and by the court to submit the final case disposition to the Department of Public Safety. Certain Key functions have been identified by DPS and are examined below along with a more detailed description of the reporting process.

1. How the DPS Incident Tracking Number (TRN) and Tracking Number Suffix (TRS) are introduced into and maintained throughout the flow of information

- All Class B Misdemeanor, Class A Misdemeanor, and Felony arrests for offenses identified by DPS as reportable offenses and made in Kendall County on local warrants or on-view arrests are reported to DPS so they may be included in the person's computerized criminal history (CCH). The officer making the arrest completes a paper booking sheet which lists the specific DPS offense code for the charge on which the individual is arrested. This booking sheet is given to the

detention officer who uses this form to enter the charge information into Live Scan, a computerized fingerprint system which creates the initial tracking number (TRN) for the arrest and electronically transmits the arrest data to DPS. This tracking number is passed to each department that deals with the case in paper format, on the original CR43 printed out at the jail.

- Previously, for all reportable offenses in Kendall County in which the Boerne Police Department (BPD) is the arresting agency, a detention officer at the jail would receive the information and have the defendant ink fingerprinted on a carbon copy CR43 form. However, BPD recently decided to accept Live Scan prints, and will henceforth have their arrestees booked and printed the same as the S.O.

2. How added charges are dealt with so that they receive an appropriate TRS and reported to the next county entity and to the DPS

a. Arresting Agency

- If there are multiple charges at the time of arrest, these are all entered on the same arrest TRN with different tracking suffixes (TRS), then the fingerprints are taken and the charges are transmitted to DPS. The TRS's are created by the fingerprinting software. If charges are added by the officers at a later time, these are submitted to the prosecutor as a separate case, and the prosecutor is responsible for submitting the new charge, if accepted, to DPS. If a new charge arises out of the same incident, it will be added to the TRN already created during the arrest. New charges added by Law Enforcement immediately at the time of arrest will have a TRS beginning with the letter 'A'.

b. Prosecutor's Office

- Charges added later by the prosecutor will have a TRS beginning with 'C' or 'D', depending on the agency adding the charge. If a charge is added by the prosecutor's office to an existing arrest, that charge is mailed to DPS by the prosecutor's CJIS entry person just before the case is sent to the County or District Clerk's Office.

3. How charges disposed by the arresting agency or prosecutor are reported to the next county agency and to the DPS

- Any on-view arrest will be submitted to the appropriate prosecutor as a case for review. If the prosecutor rejects the case, this decision will be filled out in the prosecutor's section of the CR43 form and will be mailed to DPS. These cases may be reported as dropped by arresting agency or rejected by prosecutor, and will be submitted to DPS by the prosecutor's office.

4. How persons arrested on out of county warrants are processed

- Since the agency issuing the warrant is responsible for submitting the arrest information to DPS, no information is sent to DPS by Kendall County when an out of county warrant is served. Individuals arrested on warrants from other counties are either printed through Live Scan, or ink fingerprinted, depending on the arresting agency. The arrest information is sent to the warrant holder (other county) along with the fingerprints of the defendant, the warrant and bond paperwork, and the magistration information. This allows the warrant holder to complete the CR43 and submit the information by mail to DPS.

5. How persons arrested out of county on in-county warrants are processed

- If an individual is arrested out of county on a local warrant, one of two cases may occur:
 - (1) If the arrestee does not bond out and Kendall County picks the subject up, he is booked in to our jail when he arrives and the arrest is submitted to DPS through Live Scan just as someone arrested on a local warrant;
 - (2) If, however, the arrestee bonds out before being transferred to Kendall County, the Sheriff's Office Administrative Assistant will receive the paperwork from the arresting agency. This paperwork should contain a fingerprint card and partially completed CR43. The same procedure takes place for arrests made on an in-county municipal warrant for the Boerne Police Department.

6. How each agency ensures that all charges are reported to the next county agency and to the DPS

a. Juveniles:

- When a juvenile is detained in Kendall County by law enforcement, a CR43J form is created and the juvenile will be fingerprinted at that time by the law enforcement agency. One copy is sent to DPS by mail, and the offense report and other copy is sent to the Juvenile Probation Department (JPD) for further processing.
- If charges are filed on a juvenile "at-large," meaning the child is not in the custody of law enforcement, the JPD will create the CR43 tracking form during intake and will fingerprint the juvenile before mailing the prints to DPS. The JPD will then send the prosecutor the offense report and the CR43 form so the prosecutor's office can complete its portion of the form.
- Once received by the prosecutor, the CR43 will be completed upon accepting/rejecting the case, and one copy will be mailed to DPS at the end of the month, and the other copy will be transferred on to the County Clerk.
- Once the County Clerk's office receives the form, it completes the court's portion of the form and mails a copy to DPS to report the final disposition of the case.

b. Arresting Agency:

- On each arrest made and transmitted through Live Scan, three paper copies of the arrest record (CR43) are printed, and one copy goes in the jail file, one copy goes in the prosecutor file, and one copy goes in the file to be sent to DPS.
- The detention officer manually enters the booking information into the system. The Sheriff's Office Administrative Assistant picks up jail folders twice a week and delivers the copies from the "prosecutors file" to the Sheriff's Department offices, where an investigator with the criminal investigations division will include it in his or her case file to be sent off to the prosecutor for review. For BPD arrests, a member of the police department picks up the CR43's from any police department arrest, signs for it, and takes it back to the police department to be included in the defendant's file.

- The Prosecutor receives notice of arrest on a new case by paper form (CR43/CR44) that is delivered with the new case from law enforcement. The sheriff's office will include the printout of the defendant's prints and CR43 in the case file with their offense report. Boerne PD will do the same, except police cases used to have the carbon copy CR43 as opposed to the printout from the Live Scan system used by the S.O. (This however will be changing). For any cases that arrive without a CJIS form, the prosecutor's office will attempt to obtain the form from the arresting agency by request. If the form is lost or not able to be obtained from the arresting agency, the County Attorney's Office will proceed with the case without the use of a CR43 form, if necessary, and will obtain fingerprints from the defendant before if there is a final judgment in the case.
- c. Prosecutor's Office:
- After the prosecutor reviews the case and determines to proceed with prosecution, the prosecutor section on the form is filled out. One copy of the form is delivered to the county clerk with the charging information, one copy is placed in the defendant's file, and the prosecutor's original is placed in the DPS stack. If the prosecutor rejects the case, the prosecutor section of the form is filled out showing the case has been rejected. The prosecutor's original is placed in the DPS stack and a copy is placed in the defendant's file. Every 30 days, the DPS stack of completed forms is mailed to DPS. CR43s for cases "on hold" are not sent in until the prosecutor's original is placed in the DPS stack.
- d. Clerk's Offices:
- The County Clerk receives TRN information from the county attorney's office on the carbon copy CR43 filled out by the prosecutor's office. After final judgment, the county clerk's office then sends the final disposition information to DPS by mail every 30 days. For felony cases, the District Clerk receives paper forms delivered with the case after indictment on District Court cases. After final judgment, the district clerk's office then sends the disposition information to DPS by mail.

Section IV - Problem Areas Associated with Compliance to Chapter 60 Reporting

Kendall County has identified many problem areas in the criminal history reporting process, and has been working to update procedures and equipment to prevent these problems. Many of these issues were identified and solutions put in place before the creation of the Local Data Advisory Board; however, the board has helped communicate the overall process and assisted some departments in refining their policies to help improve CCH reporting.

Getting Fingerprints from Detention Officer to Prosecutor

The two major arresting agencies in our county (KCSO and BPD) previously used separate fingerprinting systems, and this can cause problems with making sure prints are received by the prosecutor's office. The S.O. (and DPS) arrests are processed through Live Scan; Boerne Police Dept. used ink printing, and did not want the detention officer printing its arrestees on Live Scan. What detention officers had been asked to do by BPD was obtain an ink fingerprint on a carbon copy CR43 for all police department arrests, and leave the remainder of the form blank (other than suspect's name) so that a BPD officer could later retrieve and fill out the form.

Incorrect Offense Codes

Sometimes individuals have incorrect offense codes submitted to DPS resulting in errors in the arrestee's criminal history. This problem is usually discovered in the prosecutor's office when the case is being reviewed. Often times the charge in an individual's criminal history does not match the charge on the officer's offense report. The prosecutor then has the task of correcting the charge before filing the case.

Electronic Fingerprint Machine Problems

Occasionally problems arise in the jail using the electronic finger print machine, Live Scan. Some of these problems are created by the hardware itself, and can be made worse by lack of training. At times, the machine will not operate correctly and the detention officer must resort to ink fingerprinting on the carbon copy CR43. As the printing on Live Scan is different than printing by ink, it is possible a detention officer may not obtain suitable prints by ink due to the fact the officer is more used to printing suspects through the easier to use Live Scan system.

DPS Procedural Issues-Delays & Missing Paperwork

Paperwork must still occasionally be mailed in to DPS to create arrest records. If, for example, the electronic fingerprint system goes down, arrestees are ink fingerprinted and law enforcement uses the carbon copy CR43 mailed to DPS to submit information. It often takes 40 days or more from mailing date until this record appears in the system. Also, if an error is found on a mailed-in document, the document is returned to the county for correction through the DPS CJIS representative for that region. These representatives may only visit once a month, delaying notification of any errors that need to be corrected.

Recalled Warrants/Letters of Appearance/Out of County Warrants

On cases where the arrestee has not had any fingerprints made, there will be no record in DPS. The prosecutor and courts cannot submit any information to DPS until fingerprints are obtained and the DPS arrest record is created. This is also the case on out of county arrests on in-county warrants, since if any prints are received they are usually not of the quality necessary to submit to DPS. If a case is dismissed before these prints are taken, the arrest may never be submitted to DPS.

Procedural Issues

In effect, there was one system or protocol for county and trooper arrests, and a whole different system for police arrests. Because of this, many times due to confusion or mistake, the prosecutor's office will receive a police department case without a CR43 or TRN for the defendant, with the explanation that "they (the police department) never received prints from the jail."

Until recently, another common failure in reporting dispositions to DPS was caused by a lack of procedure for case filing and missing paperwork in the case file. Prior to recently created procedures, the prosecutor manually filled in CJIS carbon copies and mailed them to DPS. If the CJIS forms were not in the case file, these papers were not sent in, and there was no procedure to locate the missing paperwork or verify if there was, in fact, a local arrest. Paperwork may be missing for several reasons, including the papers being held at the jail if the defendant remained in custody without bonding out, papers being lost or not placed in correct files at the jail, papers being misplaced at law enforcement, or papers being lost or misplaced when being transported to or from law enforcement. The same problems affected the County and District Clerk's offices. If the CR43 paperwork was not in the file, there was not a set procedure and little effort was made to locate arrest paperwork or get fingerprints and submit the information to DPS. Sometimes the problem was not discovered until after the case had been disposed and the defendant was no longer in contact with the court.

Section V – Remediation of Problems

Many new procedures have already been put in place over the past year to solve the problems experienced by Kendall County. In addition, several hardware and policy changes have been identified as necessary and are in the process of being implemented.

Using Separate Procedures Depending on Which Agency Arrested Suspect

The police department's decision to not have its arrestees fingerprinted with the use of Live Scan was in response to mistakes made by a detention officer when entering information into Live Scan regarding a police department arrest. Occasionally, a police arrestee's information would be reported as a sheriff office arrest by mistake, and this would provide DPS with incorrect information. As a result, BPD decided to forego the use of Live Scan.

However, the police department has recently begun to accept Live Scan data reporting and is confident that mistakes made at the time of Live Scan printing and reporting can easily be rectified by police department communication with DPS and/or the Sheriff's Department.

Electronic Fingerprint Machine Problems

Due to occasional malfunctions of the Live Scan system, detention officers must resort to the use of ink fingerprinting. Sometimes ink fingerprinting is rejected by DPS due to their being unsuitable. To remedy this problem, detention officers are being trained to obtain legible, suitable prints and will do a better job of assuring that these prints, when necessary, are obtained and are sufficient according to DPS standards. Training of detention officers is an ongoing effort to correct data entry and human errors in this area.

DPS Offense Code List Publication Delays

The county has been in contact by email with DPS regarding offense codes, and DPS has made progress in recent years correcting these codes and making the code list more accessible. The list is available in a spreadsheet format, which works well for searching and finding offense codes. Unfortunately new problems have been created by the Highway Patrol Division when they created a new electronic citation system that does not use the same DPS code list. This again has led to problems charging the arrestee with the correct offense code on DPS trooper arrests.

DPS Procedural Issues-Delays & Missing Paperwork

Changing the method of data transfer from the prosecutor's and clerk's offices to DPS from a mailed paper form to direct data entry on the DPS EDR website would also greatly improve compliance. However, as of yet, Kendall County has not gone to a direct data entry system but hopes to in the near future.

Recalled Warrants/Letters of Appearance/Out of County Warrants

For County Court, a check is performed before each court session when the County Attorney's CJIS Administrator reviews the docket and each case is checked against DPS data using the TRN in the local case management system. Any cases for which an arrest does not exist in DPS are flagged to have the defendant fingerprinted and an arrest created on the court date. This arrest data is submitted to DPS by mail. Paper forms are sent to the jail to identify the offense code and other arrest information to help ensure the data is submitted to DPS correctly.

Procedural Issues

Many new procedures have been introduced to improve the communication of arrest data from one department to the next. One important procedural change is that all cases submitted to the prosecutors and to the clerks must have a CR43 (or CJIS data printed from the DPS EDR website) if there was a local arrest. Offices are being reminded to review all cases and if this paperwork is not attached, they are being asked to locate the paperwork or discover why it is not attached.

At the office level, a single CJIS data entry person in the prosecutor's office is now responsible for reviewing each case before it is filed in the County or District Clerk's office or closed as a rejected case. This person enters the CJIS information on the prosecutor's portion of the form or notes and locates any missing arrest information at that time. Also, a single person in each of the clerk's offices has the responsibility of entering CJIS information onto the form and mailing the completed form to DPS.

Conclusion

The Advisory Board was instrumental in bringing the various departments together to discuss the procedure changes and the need for these changes. It also provided an opportunity for departments that had already implemented changes to share those with other departments and improve county reporting as a whole. Changes have been made in hardware, personnel training, reporting procedures and departmental transfer procedures.

As of January 2010, the procedures being implemented in Kendall County should bring the County into compliance with Chapter 60, CCP. The additional procedures put in place should allow the County to maintain this compliance and improve on the accuracy of the data submitted to DPS, thereby contributing toward our goal of complete and accurate reporting of all reportable offenses.

IT IS THEREFORE ORDERED, the above Data Reporting Improvement Plan is hereby agreed to and approved by all parties appointed on the Board as evidenced by their signatures below.

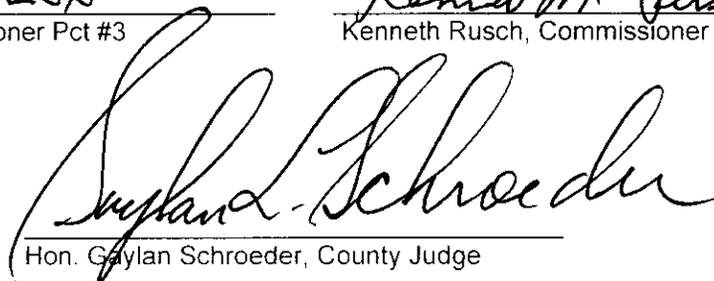
APPROVED by Commissioners Court on this the 28th day of June, 2010


Ann Reissig, Commissioner Pct #1


Gene Miertschin, Commissioner Pct #2


Darrel Lux, Commissioner Pct #3


Kenneth Rusch, Commissioner Pct #4


Hon. Gaylan Schroeder, County Judge