

Testimony Submitted by

Deputy Chief John A. Livingood, Abington Township Police Department

Before the

**The Pennsylvania House of Representatives**

**Judiciary Committee**

Hearing at

205 Ryan Office Building

Harrisburg, PA 17120

Wednesday July 23, 2014 at 10:00 AM

July 23, 2014

Mr. Chairman and members of the Committee: My name is John A. Livingood and I am the Deputy Chief of Abington Township Police Department in Montgomery County Pennsylvania. My direct responsibility in our Department is as Commanding Officer of the Detective Division and I have spent most of my 42 year career in in criminal investigations. I know the value of fingerprints and understand the importance of ensuring that every person arrested for a felony or misdemeanor has their known fingerprints taken and submitted to AFIS – and that this occurs for every arrest. Therefore, I was shocked to learn that in 2012 only 85% of those arrested in Abington Township who should have had their prints submitted actually were.

I have reviewed those cases where fingerprints should have been taken but were not and have identified a reason for each one. We have also worked on solutions for these issues which I believe will drastically reduce this failure rate.

In order to understand how our experience relates to other jurisdictions in the Commonwealth it is important to know a little more about Abington Township. We are a community of 15 ½ square miles with approximately 56,000 full-time residents. Abington Police Department has 93 sworn, full-time police officers and we operate a central booking facility on-site which we share with neighboring agencies that choose to use it. Each year we do over 1,000 criminal processings for Abington Township with additional processings for neighboring agencies as well as non-criminal processings for applicants, persons needing security clearances, employment checks, etc. Fees received for these processings support the center; including paying a part-time (35 hours/week) employee whose primary responsibility is running the central booking center. In addition, every detective in our Department as well as other key personnel is trained to process arrestees when this employee is not available.

Criminal histories, commonly referred to as rap sheets, are based totally on the known fingerprints of an individual. When a person is arrested, their known fingerprints are taken on a Livescan device along with a digital photo(s) or mug shot. Once prints of an arrestee are taken they are electronically transmitted to

July 23, 2014

the Pennsylvania State Police Central Repository and their Automated Fingerprint Identification System (AFIS). AFIS will, within minutes, determine if that set of known prints has been previously taken and therefore whether the person was previously arrested. If the person has been previously arrested, the new arrest and charges will be added to their already existing criminal history and a new rap sheet containing all arrests, charges associated with each, arresting agency, date of arrest and usually the disposition of those charges will be listed. If the person had not previously been arrested, the rap sheet will contain only the current arrest and charges but in either case it will also list the unique personal identifiers of the arrestee. Therefore, it doesn't matter what name, date of birth or other information a person gives law enforcement, he or she will be uniquely and positively identified by AFIS.

If an arrestee's fingerprints are not submitted to AFIS, then that arrest will never appear on their rap sheet no matter what other information is submitted. Obviously this is important so that officers are aware of the past criminal history of a person they are dealing with.

It is important to note that law enforcement officers can query criminal histories by using the name and whatever unique identifiers they have of an individual. This happens every minute of every day. Officers who stop individuals during an investigation routinely ask for their identification and then run them through the National Crime Information Center (NCIC) and the Commonwealth Law Enforcement Assistance Network (CLEAN) to: (1) see if they are wanted or if warrants exist for them and (2) to see what previous criminal history the person they are facing has. This illustrates how critical it is to have complete, accurate rap sheets which include every qualifying arrest of every individual. In addition, the level of seriousness of certain crimes, such as retail theft, is determined in part by whether this is the first, second, or subsequent offense.

The major reason that persons who are arrested that should be processed sometimes slip through the cracks and are not is the criminal summons. Pennsylvania Rules of Criminal Procedure require that a criminal summons and

July 23, 2014

not a warrant be used where the highest offense charged is a Misdemeanor of the second degree. In cases where the highest offense charged is a misdemeanor of the first degree, the issuing authority has discretion to file a criminal summons or a warrant. Pennsylvania Rules of Criminal Procedures rule 510 specifies how cases filed by criminal summons will proceed. After the affiant police officer submits the criminal complaint to the Magisterial District Court, the Court will mail the defendant the criminal summons, a copy of the criminal complaint, and a fingerprint order card (MDJS 405). A copy of the fingerprint order card is also mailed to the arresting agency. The fingerprint order card instructs the defendant to report to the arresting agency for fingerprinting prior to the date set for the preliminary hearing. Ideally, the defendant comes in promptly and is processed (fingerprinted) and the arresting agency returns the fingerprint order card to the MDC indicating the person has been processed. This is a major point of breakdown in the system.

We determined that there were two primary reasons that created the problem of those charged by criminal summons not being processed as required.

1. Court Issues:

a. Failure of the District Courts to send out fingerprint order cards.

i. One of our District Justices did not send out fingerprint order cards because his predecessor had instructed him not to. The rationale was that if charges were later reduced or dropped the person charged would needlessly have these charges on their criminal history.

ii. This was an easy fix by meeting with the MDC and this Court is now complying.

b. Failure of the District Courts to insure persons arrested were processed before their preliminary hearing or before they waived their preliminary hearing.



July 23, 2014

- i. We met with both of our District Justices and both will comply with rule 510 which requires that they make processing a condition of bail if it has not been done by the time of the preliminary hearing.
- ii. We are taking the added step of sending a letter to those defendants who were issued criminal summonses and failed to appear for processing as instructed on the fingerprint card. This letter tells them that if they do not appear a warrant will be issued. A copy is sent to the MDC. Some defendants who did not respond to the fingerprint order card will respond to this letter. If they still don't respond, at least the police and MDC are alerted that processing has not occurred and this can be dealt with at the preliminary hearing.
- iii. This is a shared responsibility of the Police and the Courts. Each must make sure that processing occurs before the hearing or the waiving of the hearing takes place.

2. Police Issues:

- a. Police using processing as a "bargaining chip". We found that it was a common occurrence in drug cases for officers to charge arrestees with an array of misdemeanor charges and then tell the defendant that if they "cooperated" the charges would be reduced to a summary; they would not have to be processed; and would not end up with a criminal record. We have changed this procedure to make sure this no longer occurs. Officers will now charge appropriately and if charges are reduced later because of cooperation that will be reflected in the "disposition" on the rap sheet. Note: This was found to be a major cause of processings not being done.

July 23, 2014

- b. Police will make every effort to process persons arrested before releasing them on a criminal summons. Even if they have good I.D., they should be brought in, processed and promptly released.
  - i. We have a police officer who is assigned to Willow Grove Park Mall. We have trained him to do fingerprinting to assist in this process.
- c. Police (Detectives) being “too busy” to process persons who come in for criminal fingerprinting.
  - i. Both District Courts are going to list the hours of 8:30 AM until 8:30 PM, Monday through Friday on the fingerprint order cards as the hours during which persons should appear for fingerprinting. We will make sure someone is available to promptly process them during these hours.
  - ii. We will make every attempt to process them on weekends and at other hours but we will make sure it happens during those hours.

While Abington’s experience may not relate directly to other jurisdictions, there are certain principles that do apply to all. Fixing the problems will require that police and MDC work together. Making sure that persons charged by criminal summons are processed is everyone’s responsibility. Police should never use this process as part of a bargaining strategy.

We may never be perfect in regards to this process but we can and we must do better. By adopting these changes I believe that Abington Township Police will drastically reduce the number of persons who should have been processed but were not. Perhaps these changes could work for other jurisdictions as well. Thank you for your time.

**Magisterial District Judge Thomas Miller – President  
Special Court Judges Association of Pennsylvania**

Thank you for the opportunity to address you this morning.

With 67 counties in Pennsylvania there are 67 different ways that fingerprinting takes place. With a few exceptions, Title 18 Section 9112 (attached) places the burden on the local police or the Pennsylvania State Police. Unfortunately, because of limited manpower and lack of nearby processing facilities this may not occur. (See article by Jeffrey Benzing, June 29, 2014)

In counties that have a 24-hour arraignment or night court, defendants are processed and printed prior to preliminary arraignment. However, depending on how busy it is and how many employees are working in processing the defendant may be there anywhere from 8 to 24 hours before being arraigned.

In cases when charges are filed by summons, defendants usually are not fingerprinted by the arresting agency prior to the filing of charges. The Magisterial District Courts then send a fingerprint order (attached) for the defendant to appear at a set date, time and location to be fingerprinted. Some defendants comply and some do not. Often, the preliminary hearing proceeds without them being printed. If the case is held for court they are given a new date and appearing for fingerprinting is made a condition of bond. If they still do not appear, sometimes it is caught at formal arraignment but sometimes it is not. The District Attorney very rarely moves to modify or revoke bail for failure to comply with a fingerprinting requirement.

A defendant can be taken into custody at the preliminary hearing and taken for fingerprinting. This increases the cost on the county (constable fees) and if bond is set for failure to comply over burdens the jail staff. We do not have enough room for those who should be in jail to be putting people in because they were not printed.

If a case is settled at the preliminary hearing then the defendant usually never gets printed. An example in Allegheny County, if you are charged with Possession of Drug Paraphernalia (35 780-113 13a32). These are routinely pleaded down to summary Disorderly Conduct. If the defendant was not printed prior to the hearing there will be no record of this arrest or charge. It is also routine in these cases to proceed without the defendant being printed because of judicial economy. It would take another 3 – 4 week to get another fingerprint date and the end case result would be the same. Rumor is that some defense attorney's in Allegheny County advise their clients not to appear for fingerprinted if they believe the charges will be reduced. That eliminates them having to get an expungement later.

The problem with not getting every defendant printed is that there is not a complete criminal history on each defendant. Also, the chance of a defendant wanted in another jurisdiction and using an alias, being released increases. Who wants to be responsible for someone wanted for rape or robbery being released?

What is the answer? We need to set guidelines for every county, both large and small, to follow. We need to make live scan equipment available to police departments and train every officer in its use. Require law enforcement to print every person being charged with a criminal offense, even if they are being released and charges filed by summons, while in their custody. There will be exceptions to this such as the defendant was too intoxicated, defendant needed medical care, etc.

I'm happy to answer any questions.

**18 § 9106****MISCELLANEOUS PROVISIONS****Pa.C.S.**

maintain the intelligence information, investigative information or treatment information.

(g) **Penalties.**—Any person, including any agency or organization, who violates the provisions of this section shall be subject to the administrative penalties provided in section 9181 (relating to general administrative sanctions) and the civil penalties provided in section 9183 (relating to civil actions) in addition to any other civil or criminal penalty provided by law.

(Dec. 14, 1979, P.L.556, No.127, eff. imd.; Dec. 19, 1990, P.L.1332, No.207, eff. 60 days)

**Cross References.** Section 9106 is referred to in section 9141 of this title.

**SUBCHAPTER B  
COMPLETENESS AND ACCURACY****Sec.**

9111. Duties of criminal justice agencies.

9112. Mandatory fingerprinting.

9113. Disposition reporting by criminal justice agencies.

9114. Correction of inaccurate information.

**Cross References.** Subchapter B is referred to in section 9104 of this title.

**§ 9111. Duties of criminal justice agencies.**

It shall be the duty of every criminal justice agency within the Commonwealth to maintain complete and accurate criminal history record information and to report such information at such times and in such manner as required by the provisions of this chapter or other applicable statutes.

**§ 9112. Mandatory fingerprinting.**

(a) **General rule.**—Fingerprints of all persons arrested for a felony, misdemeanor or summary offense which becomes a misdemeanor on a second arrest after conviction of that summary offense, shall be taken by the arresting authority, and within 48 hours of the arrest, shall be forwarded to, and in a manner and such a form as provided by, the central repository.

(b) **Other cases.**—

(1) Where private complaints for a felony or misdemeanor result in a conviction, the court of proper jurisdiction shall order the defendant to submit for fingerprinting by the municipal police of the jurisdiction in which the offense was allegedly committed or in the absence of a police department, the State Police. Fingerprints so obtained shall, within 48 hours, be forwarded to the central repository in a manner and in such form as may be provided by the central repository.

(2) Where defendants named in police complaints are proceeded against by summons, or for offenses under section 3929 (relating to retail theft), the court of proper jurisdiction shall order the defendant to submit within five days of such order for fingerprinting by the municipal police of the jurisdiction in which the offense allegedly was committed or, in the absence of a police department, the State Police. Fingerprints so obtained shall,



**Ch. 91 CRIMINAL HISTORY RECORD INFO. 18 § 9112**

within 48 hours, be forwarded to the central repository in a manner and in such form as may be provided by the central repository.

**(c) Transmittal of information.**—The central repository shall transmit the criminal history record information to the criminal justice agency which submitted a complete, accurate and classifiable fingerprint card.

(Dec. 14, 1979, P.L.556, No.127, eff. imd.; June 11, 1982, P.L.476, No.138, eff. 180 days)

**Cross References.** Section 9112 is referred to in section 6309 of Title 42 (Judiciary and Judicial Procedure).

**§ 9113. Disposition reporting by criminal justice agencies.**

**(a) Reports of dispositions required.**—All criminal justice agencies, including but not limited to, courts, county, regional and State correctional institutions and parole and probation agencies, shall collect and submit reports of dispositions occurring within their respective agencies for criminal history record information, within 90 days of the date of such disposition to the central repository as provided for in this section.

**(b) Courts.**—Courts shall collect and submit criminal court dispositions as required by the Administrative Office of Pennsylvania Courts.

**(c) Correctional institutions.**—County, regional and State correctional institutions shall collect and submit information regarding the admission, release and length of sentence of individuals sentenced to local and county institutions as required by the Bureau of Correction.

**(d) Probation and parole offices.**—County probation and parole offices shall collect and submit information relating to the length of time and charges for which an individual is placed under and released from the jurisdiction of such agency as required by the Pennsylvania Board of Probation and Parole.

**(e) State agencies.**—The Administrative Office of Pennsylvania Courts, the Bureau of Correction, the Pennsylvania Board of Probation and Parole and the Pennsylvania Board of Pardons shall collect and submit to the central repository such information necessary to maintain complete and accurate criminal history record information. Each State agency listed in this subsection shall submit to the central repository any reports of dispositions occurring within their respective agencies and such information reported from county and local criminal justice agencies.

**References in Text.** The Bureau of Correction, referred to in subsecs. (c) and (e), is now the Department of Corrections.

**Cross References.** Section 9113 is referred to in section 6309 of Title 42 (Judiciary and Judicial Procedure).

**§ 9114. Correction of inaccurate information.**

Within 15 days of the detection of inaccurate data in a criminal history record, regardless of the manner of discovery, the criminal justice agency which reported the information shall comply with the following procedures to effect correction:

- (1) Correct its own records.

# Pennsylvania police fail to fingerprint thousands of suspected criminals

Missing prints for sex crimes mean inaccurate background checks

By Jeffrey Benzing | PublicSource | June 29, 2014

(<http://www.addthis.com/bookmark.php?v=300&winname=addthis&pub=ra-533354914ef65d3d&source=tbx32-300&in-us&s=gmail&url=http%3A%2F%2Fpublicsource.org%2Finvestigations%2Fpennsylvania-police-fail-fingerprint-thousan-criminals&title=Pennsylvania%20police%20fail%20to%20fingerprint%20thousands%20of%20suspected%20criminals%20533354914ef65d3d/-/53c96a2cc6dec442/2/51296f680e330851&frommenu=1&ips=1&uid=51296f680e330851&ct=1&rsi=53c58253f95d52a4&g>)

23

In 2013, 30,000 suspected criminals whose charges included sex crimes, assaults and murder were not fingerprinted by Pennsylvania police, according to state records.

State law requires that suspected offenders be fingerprinted within 48 hours of arrest.

So, if thousands of people aren't getting fingerprinted, whose fault is it?

"It's up to the police to do it. It's a mandatory function. It's not anybody else's job but the arresting department," said Eric Radnovich, director of the Bureau of Justice Services at the Cumberland County District Attorney's Office.

But police often pass the buck, relying on judges, jailers or even defendants themselves to be sure prints are made. In many cases, prints are made more than a year later, if they're made at all.

The social cost of not fingerprinting those who are arrested is not small: Without a fingerprint, a defendant has no criminal history.



Sign up for our free newsletter.

Email\*

Name\*

Zip

([http://www.formstack.com?utm\\_source=b&utm\\_medium=js-embed&utm\\_campaign=fa&fa=h.1712735](http://www.formstack.com?utm_source=b&utm_medium=js-embed&utm_campaign=fa&fa=h.1712735))

That means they can't be tracked. Neither the court system nor other police departments have a record. Their background check would be clean if they wanted to teach or coach in a school or daycare or work in a nursing home. Their offenses wouldn't be on record if they wanted to buy a gun.

"Just think about someone in your neighborhood who was arrested for a sex offense involving a child. It's like the system is blind to him," Mark Bergstrom, executive director of the Pennsylvania Commission on Sentencing, told PublicSource.

Luzerne, McKean, Lawrence and Northumberland counties are the four worst when it comes to fingerprinting, with police failing to fingerprint roughly 40 percent of the people they arrest, according to data compiled by the Pennsylvania Commission on Crime and Delinquency and analyzed by PublicSource.

More than a dozen other counties are missing prints in at least 20 percent of cases.

The counties with the state's two biggest cities, Allegheny County and Philadelphia County, do well on fingerprinting. In fact, Philadelphia has the best record in the state, with nearly 100 percent of criminals being fingerprinted.

#### MISSING FINGERPRINTS

---

Pennsylvania state law requires that suspected offenders be fingerprinted within 48 hours of arrest. In 2013, 30,000 individuals weren't. Click on a county below to see the percent of missing fingerprints between January and December 2013.

The state police identified missing records for about 9 percent of Allegheny County's cases from 2013.

Bergstrom said fingerprinting is most important for sex offenders.

State police, he said, have found that some sex offenders registering under Megan's Law had no prior fingerprint record, even though they should have been fingerprinted when they were arrested, and certainly before incarceration.

Over the past three years, the state has spent \$1.78 million to train police, raise awareness and to help them purchase electronic fingerprinting machines. Many departments have improved.

[View Larger Map \(http://www.arcois.com/home/webmap/viewer.html?webmap=670d160841d540faa7db1853479f07d6&extent=-82.8508,38.4687,-71.6228,43.8881\)](http://www.arcois.com/home/webmap/viewer.html?webmap=670d160841d540faa7db1853479f07d6&extent=-82.8508,38.4687,-71.6228,43.8881)

Source: Pennsylvania Commission on Crime and Delinquency numbers analyzed by PublicSource.

---

For those departments that are still delinquent in getting fingerprints, state officials said, there's little they can do, since there are no sanctions for those with chronically low numbers.

## Sex offender with a missing record

The cases of some who were not fingerprinted on arrest are startling.

What's more, it's difficult to see how they could have been overlooked.

Take the case of Paul Graham Jr.

Graham was convicted of rape in 1986 and was accused in 2001 of raping a 13-year-old, according to an affidavit provided by the Donora Police Department. No record of charges from 2001 exists at the Washington County Courthouse. Officials said they are unsure why.

Details about Graham's previous conviction are not linked to his public court summary, though he was flagged as being in violation of parole from an unspecified crime in 1986.



Most recently, he was convicted of raping his niece, who was under 13 at the time, and who Graham sometimes baby-sat, according to a police affidavit. The case was filed in June 2012, but he wasn't fingerprinted until 18 months later, according to the county booking center.

Data from the state police for the second half of 2012 identified his case as missing fingerprints after it moved to the Court of Common Pleas.

Graham's alleged crimes are sexual in nature, and he has a dangerous criminal history — exactly the type of offender officials said need to be printed when arrested.

However, his fingerprints do not appear in the system until after his sentencing in December 2013. The Megan's Law registry, which also added him after his sentencing, provides information about his past sex offense.

Graham is appealing his 125- to 250-year sentence.

If lapses aren't corrected, an offender could be convicted, serve time, and still not have a verifiable criminal history.

"Without 100 percent compliance, we can't ensure the public that something won't fall through the cracks," said Joseph Zupancic, deputy district attorney in Washington County.

The Charleoi Regional Police Department, which arrested Graham, referred questions to the county booking center and did not respond to calls for more information.

Graham's public defender could not be reached by deadline.

## Statewide problems

Compliance across Pennsylvania was about 87 percent for the last six months of 2013, slightly up from the first half of the year, according to state figures. In 2006, when the PCCD and other groups began tracking fingerprint numbers, prints were missing statewide in about a third of all cases.

Many problem areas remain.

Luzerne, McKean and Lawrence Counties were respectively missing prints in 42.3 percent, 40.3 percent and 38.1 percent of cases from the last half of 2013. Prints were missing for roughly 2,000 defendants from just those three counties.

Northumberland County was missing prints in 37.6 percent of cases for the period, and Erie County was missing prints in a third of all cases.

By volume, the Erie City Police Department is the worst in the state by roughly 300 cases. State police are missing prints for 563 Erie cases out of 868 total, according to data for the second half of 2013.

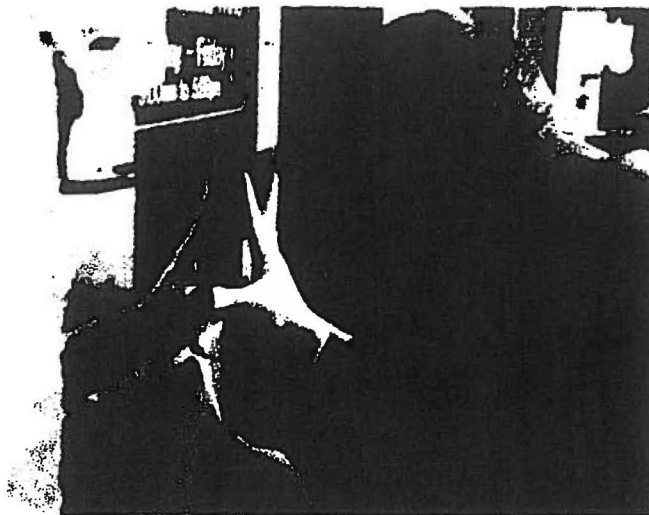
Erie police did not return PublicSource phone calls.

A recent Beaver County case shows the importance of fingerprinting.

## The best and worst counties for getting fingerprints

Below are the 15 counties missing the most fingerprints by percentage and the 15 counties with the best compliance. Each police department within a county is individually responsible for ensuring that defendants are fingerprinted.

The worst	The best
Luzerne (42.3%)	Philadelphia (1%)
McKean (40.3%)	Clinton (1.7%)
Lawrence (38.1%)	Beaver (1.9%)
Northumberland (37.6%)	Lebanon (3.6%)
Erie (33.3%)	Lehigh (3.7%)
Greene (32.8%)	Centre (4.1%)
Susquehanna (32%)	Snyder (4.3%)
Bradford (31.2%)	Adams (5.9%)
Westmoreland (30.2%)	Mifflin (7.1%)
Armstrong (28.4%)	Cumberland (7.7%)
Schuylkill (27.5%)	York (8.1%)
Montour (27.3%)	Bucks (8.6%)
Somerset (25.9%)	Fulton (8.7%)
Wayne (24.5%)	Allegheny (8.9%)
Cambria (23.3%)	Butler (9.3%)



Pennsylvania State Police Trooper Richard Hunter tries to lift a fingerprint from the front door of Community Bank in Cecil Township, Washington County, shortly after the bank was robbed in July 2009. (Photo by Jim McNutt / Observer-Reporter)

A botched background check allowed Larry A. Hicks to get a concealed firearm permit in 2010, even though he pleaded guilty to a felony in 1989 and a misdemeanor assault in 1992.

He was accused of making death threats at a nursing home in January 2013, and, according to court documents, lied on his permit application about prior convictions.

The death threat charges were withdrawn after problems were found in the sheriff's department's investigation, though Hicks pleaded guilty to a summary harassment charge after being accused in November 2012 of pointing a gun at a man near a nursing home and threatening to shoot him and his dog.

County law enforcement said the earlier crimes might not have appeared in the background check because Hicks' fingerprints weren't in the system, according to *The Beaver County Times*, a PublicSource partner.

If his fingerprints had been on file, his criminal history would have been available to the sheriff's department.

Overall, Beaver County's record on fingerprinting is good, with only 1.9 percent of cases missing in the last six months of 2013, the most recent period for which records are available.

## Police problems

Police sometimes view fingerprinting as clerical work, and time spent making sure an offender is printed is time spent off patrol, which can be problematic for small departments.

Chief Randy Epler of the Towanda Borough Police Department in Bradford County said the majority of the defendants arrested there aren't fingerprinted until their preliminary court appearance.

His explanation is simple. An arrest is a volatile time.

Defendants may be drunk. They may have been fighting. They may need medical care.

"It's not a good scene," Epler said about fingerprinting. "It's kind of like getting in a fight with your wife ... and trying to balance a checkbook at the same time."

If defendants are in police custody, the officers are responsible for getting them printed. If they are released, defendants are trusted to visit the booking office on their own.

For misdemeanors and some felonies, defendants in Pennsylvania can be charged by receiving a summons, which means they are not arrested, and the responsibility rests on the suspected criminal to be printed.

## A solution in Philly?

Problems can't be blamed on size.

Philadelphia touts nearly 100 percent compliance, a credit to a centralized booking system that won't allow a defendant to go before a magistrate before being printed.

The Philadelphia Police department processes 1,000 to 1,300 offenders weekly. The average time between arrest and fingerprinting is 18.5 hours, according to Lt. Gabriel Keown, commanding officer of the department's Records and Identification Unit.

"Nothing ever gets to a magistrate unless they're printed," Keown said. "Our workflow doesn't allow us to bypass fingerprinting."

For all of Philadelphia County, the State Police data is missing 222 prints out of 23,320 cases from the last half of 2013. The city's record is so good it boosts the compliance rate statewide.

Pittsburgh's record is not quite as good, with prints from the Pittsburgh Bureau of Police missing in 4.75 percent of cases for the period. Offenders are printed by the Allegheny County Jail and, by policy, arraignment shouldn't occur unless a print has been made.

### What stops police from fingerprinting?

Officials give many reasons for missing prints. Among them:

- Fingerprinting centers are too far away.
- Booking centers aren't open 24 hours.
- Officers or jail personnel don't follow procedure.
- Fingerprint cards aren't processed properly.
- Offenders don't comply with a fingerprint order.

Counties like Washington have responded to lapses by implementing centralized booking, which, beginning in July, will run 24 hours at the county jail. Until then, booking operations are limited to daytime, though many crimes tend to be committed at night.

Each police chief is responsible for their department's compliance. State Rep. Todd Stephens (R-Montgomery) said many chiefs had no idea their numbers were so bad.

"They were totally unaware," said Stephens, a former prosecutor who has been advocating for better compliance since July 2013. "I'd send them the data, and they were shocked."

The state Judiciary Committee will hold a hearing at 10 a.m. on July 23 on the state's fingerprinting lapses.

Improvement needs to be based on education and measurable accountability, Bergstrom said.

The PCCD in the past has tied grant money to compliance with state law, and he said providing departments or local governments with financial benefits — or penalties — could make fingerprinting a priority.

But funding is also part of the problem, and Bergstrom said another fix might be to dedicate funding toward problem areas to help police and county systems change their behavior.

A digital fingerprinting and photography system currently costs \$37,750 with about \$6,150 in yearly maintenance, Radnovich said, its cheapest price ever.

Radnovich, who chairs the Local Technology Workgroup at the PCCD, said he doesn't think compliance will improve unless the system is changed so making an arrest is literally impossible without fingerprinting.

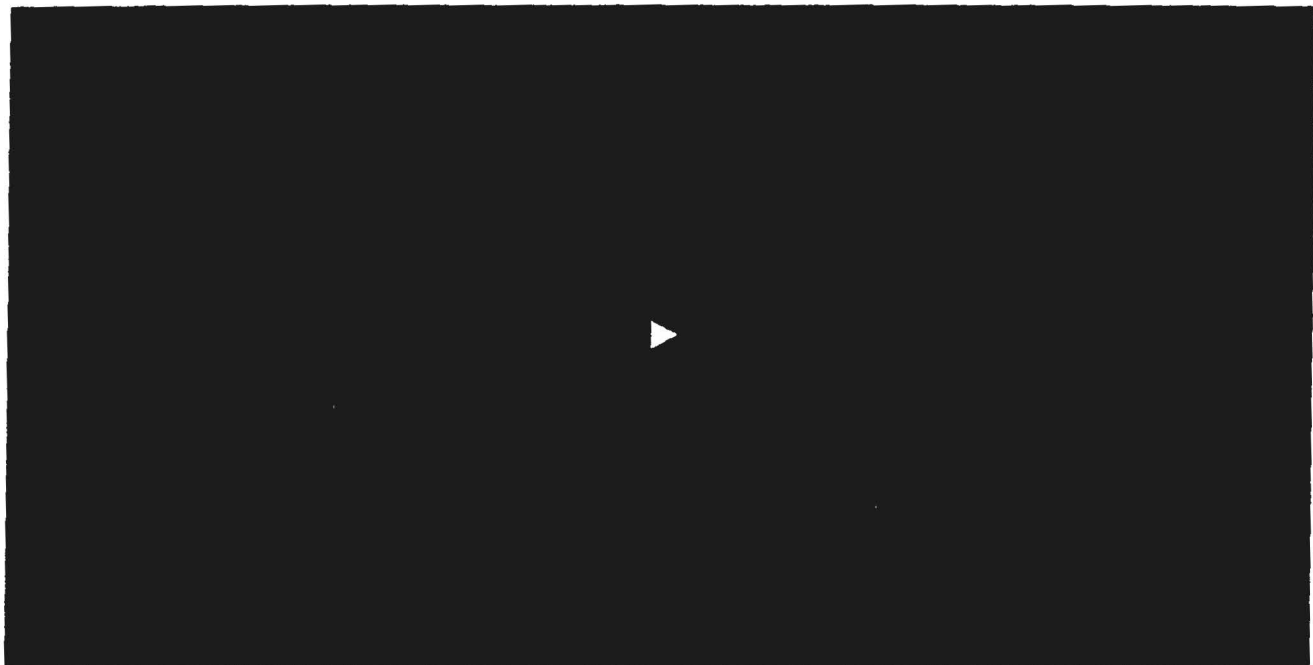
"It would take state law and an unbelievable amount of kicking and screaming and pitchforks and torches," Radnovich said.

But if the busiest department in the state — by almost 40,000 cases for 2013 — has mastered compliance, couldn't everyone?

"If it can work in Philadelphia," Bergstrom said, "with all the numbers, the volume, everything else, it should be able to work anywhere."

Reach Jeffrey Benzing at 412-315-0265 or at [jbenzing@publicsource.org](mailto:jbenzing@publicsource.org) (mailto:[jbenzing@publicsource.org](mailto:jbenzing@publicsource.org)).

#### ABOUT THE DATA



PublicSource analyzed raw data on missing fingerprints provided for the first time by the Pennsylvania Commission on Crime and Delinquency. The most recent data matches magisterial case dispositions from the second half of 2013 with the Pennsylvania State Police fingerprint database. If the two systems don't match, the State Police have no record of fingerprints.

The data is not perfect. Sometimes departments properly print defendants, but a clerical error in the courthouse may cause it to be classified as missing on the state level.

As departments vet their cases, the data may change, though the PCCD and State Police said the data gives a fairly accurate view of compliance. PublicSource was given data going back to July 2012, separated in six-month increments.

## TOPICS

---

[Criminal Justice \(/category/topic/criminal-justice\)](#)

[Data \(/category/data\)](#)

[Public safety \(/category/topic-10\)](#)

## COMMENTS

---

To help facilitate the conversation, we've put together some guidelines so you'll know what we think is harmful or inappropriate. Harmful, inappropriate content will be removed and repeat offenders can be banned from contributing in the future. [Click here to read our commenting guidelines. \(/node/3116\)](#)



Facebook social plugin

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF ALLEGHENY

## Fingerprint Order

Commonwealth of Pennsylvania  
v.  
[REDACTED]

Mag. Dist. No: MDJ-05-3-05  
 MDJ Name: Honorable Thomas Miller Jr.  
 Address: 1985 Lincoln Way  
 Rainbow Village Shopping Center  
 White Oak, PA 15131  
 Telephone: 412-672-3916

[REDACTED]  
 802 Riverview Dr  
 White Oak, PA 15131

DOB: [REDACTED]  
 DL: [REDACTED]

Docket No: MJ-05305-CR-0000105-2014  
 Case Filed: 7/11/2014  
 OTN: G 683648-0  
 Incident No: 201407-00169

## Type of Case:

- ☐ Retail Theft  
☒ Police Prosecution (Summons)  
☐ Private Prosecution (Convictions)

PA0020K00 - White Oak Boro Police Dept  
 (Citing Authority)

Offense Date: 07/03/2014 Officer: 17859 Estep, Timothy O  
 YOU HAVE BEEN CHARGED WITH THE OFFENSE OF:

## Charge(s)

75 § 3743 §§ A (Lead) ACCIDENT INVOLVING DAMAGE TO ATTENDED VEHICLE OR  
 75 § 3802 §§ A1\* DRIVING UNDER THE INFLUENCE OF ALCOHOL OR CONTROLL  
 75 § 1543 §§ A DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED OR

YOU ARE HEREBY ORDERED TO REPORT TO: BCI  
 Municipal Courts Bldg  
 660 First Ave 3rd Fl  
 Pittsburgh, PA 15219

BETWEEN THE DATES OF: 08/01/2014 AND 08/01/2014 FROM: 12:40PM TO 12:40PM  
 (Date) (Date) (Time)

TO BE FINGERPRINTED IN ACCORDANCE WITH THE CRIMINAL HISTORY RECORD INFORMATION ACT, 18 Pa.C.S. § 9112.

THIS ORDER MUST BE PRESENTED AT THE TIME OF FINGERPRINTING.

(Signature of Defendant)

(In the presence of Issuing Authority or Fingerprinting Official)

(Signature of Official Taking Fingerprints)

July 21, 2014

Date

Magisterial District Judge Thomas Miller Jr.



## INSTRUCTIONS TO FINGERPRINTING AGENCY

Under the Criminal History Record Information Act, 18 Pa.C.S. § 9112, you are to fingerprint the defendant named in this order. Record the OTN on the fingerprint card, and forward the completed fingerprint card to the Pennsylvania State Police, Central Repository, 1800 Elmerton Avenue, Harrisburg, PA 17110. This form should be signed by the defendant and the fingerprinting official, and shall accompany the fingerprint card on retail theft cases. On retail theft cases, the state police will classify the fingerprints and determine whether the defendant has any prior retail theft convictions. Findings will be forwarded to the police department and the judge named above on police prosecutions, or to the judge only on private prosecutions. On all other cases, this form shall be returned to the issuing authority.

## RESULTS OF PENNSYLVANIA STATE POLICE RECORD SEARCH:

☐ NO RECORD OF RETAIL THEFT CONVICTIONS ☐ DEFENDANT HAS \_\_\_\_\_ PREVIOUS CONVICTION(S) FOR RETAIL THEFT

STATE IDENTIFICATION NUMBER \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF ALLEGHENY

## Fingerprint Order

Mag. Dist. No: MDJ-05-3-05  
 MDJ Name: Honorable Thomas Miller Jr.  
 Address: 1985 Lincoln Way  
 Rainbow Village Shopping Center  
 White Oak, PA 15131  
 Telephone: 412-672-3916

Commonwealth of Pennsylvania  
 v.  
 [REDACTED]

[REDACTED]  
 802 Riverview Dr  
 White Oak, PA 15131

DOB: [REDACTED]  
 DL: [REDACTED]

Docket No: MJ-05305-CR-0000105-2014  
 Case Filed: 7/11/2014  
 OTN: G 683648-0  
 Incident No: 201407-00169

## Type of Case:

- ☐ Retail Theft  
☒ Police Prosecution (Summons)  
☐ Private Prosecution (Convictions)

PA0020K00 - White Oak Boro Police Dept  
 (Citing Authority)

Offense Date: 07/03/2014 Officer: 17859 Estep, Timothy O  
 YOU HAVE BEEN CHARGED WITH THE OFFENSE OF:

## Charge(s)

75 § 3743 §§ A (Lead) ACCIDENT INVOLVING DAMAGE TO ATTENDED VEHICLE OR  
 75 § 3802 §§ A1\* DRIVING UNDER THE INFLUENCE OF ALCOHOL OR CONTROLL  
 75 § 1543 §§ A DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED OR

YOU ARE HEREBY ORDERED TO REPORT TO: BCI  
 Municipal Courts Bldg  
 660 First Ave 3rd Fl  
 Pittsburgh, PA 15219

BETWEEN THE DATES OF: 08/01/2014 AND 08/01/2014 FROM: 12:40PM TO 12:40PM  
 (Date) (Date) (Time)

TO BE FINGERPRINTED IN ACCORDANCE WITH THE CRIMINAL HISTORY RECORD INFORMATION ACT, 18 Pa.C.S. § 9112.

THIS ORDER MUST BE PRESENTED AT THE TIME OF FINGERPRINTING.

(Signature of Defendant)

(In the presence of Issuing Authority or Fingerprinting Official)

(Signature of Official Taking Fingerprints)

July 21, 2014

Date

Magisterial District Judge Thomas Miller Jr.



## INSTRUCTIONS TO FINGERPRINTING AGENCY

Under the Criminal History Record Information Act, 18 Pa.C.S. § 9112, you are to fingerprint the defendant named in this order. Record the OTN on the fingerprint card, and forward the completed fingerprint card to the Pennsylvania State Police Central Repository, 1200 Elmerton Avenue, Harrisburg, PA 17110. This form should be signed by the defendant and the fingerprinting official, and shall accompany the fingerprint card on retail theft cases. On retail theft cases, the state police will classify the fingerprints and determine whether the defendant has any prior retail theft convictions. Findings will be forwarded to the police department and the judge named above on police prosecutions, or to the judge only on private prosecutions. On all other cases, this form shall be returned to the issuing authority.

## RESULTS OF PENNSYLVANIA STATE POLICE RECORD SEARCH:

☐ NO RECORD OF RETAIL THEFT CONVICTIONS ☐ DEFENDANT HAS \_\_\_\_\_ PREVIOUS CONVICTION(S) FOR RETAIL THEFT

STATE IDENTIFICATION NUMBER \_\_\_\_\_

IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

IN RE: ELECTRONIC PROCESSING : ADMINISTRATIVE ORDER NO. 59  
PRIOR TO PRELIMINARY :  
ARRAIGNMENT :

**ORDER**

And now, this <sup>15</sup> day of July, 2010, it is hereby ordered and directed that all defendants to be preliminarily arraigned in any Bucks County Magisterial District Court be first processed using Livescan and CPIN technology. Prior to or at the time of the preliminary arraignment, the arresting officer shall provide a copy of the defendant's criminal history to the judge conducting the arraignment.

The foregoing requirement may be waived only in the event of an unusual circumstance, such as a serious medical condition, which would prevent prompt processing.

This Order shall become effective September 1, 2010.

A handwritten signature in black ink, appearing to read 'SUSAN DEVLIN SCOTT', written over a horizontal line.

SUSAN DEVLIN SCOTT  
President Judge



Pennsylvania Fingerprint Reporting  
**Pennsylvania Court System Testimony, July 23, 2014, House Judiciary Committee**  
David Price, Esq., Administrative Office of Pennsylvania Courts

Since 2012, the Administrative Office of Pennsylvania Courts (“AOPC”) has been providing information and assistance to PCCD’s Fingerprint Compliance Workgroup as it studies offender identification fingerprinting performance in the Commonwealth.

While it is the statutory responsibility of the arresting agency to take and submit to the Pennsylvania State Police Central Repository the fingerprints of all person arrested for certain crimes<sup>1</sup>, there are a few occasions when a court is required to order that an individual be fingerprinted. Even in these limited instances, the role of the court is to *order* that the defendant be fingerprinted. The *actual fingerprinting process* is still performed by law enforcement personnel who take and submit the fingerprints to the Pennsylvania State Police Central Repository. My comments will be focused on when a court is required to issue a fingerprint order.

The first instance in which a court is required to issue a fingerprint order is when a criminal case is initiated by a summons. In these cases, the court “shall order the defendant to submit within five days...for fingerprinting by the municipal police of the jurisdiction in which the offense was allegedly committed or, in absence of a police department, the Pennsylvania State Police” (as provided in 18 Pa.C.S § 9112(b)(2)). The reason for this requirement could be that the defendant does not undergo in a summons case the same type of identification processing that occurs in an arrest case because the defendant is not in custody and no preliminary arraignment is held. Therefore, the first occasion in which the defendant comes before an issuing authority is usually at the preliminary hearing.

To fulfill this requirement, the courts, such as the Magisterial District Courts, attach a fingerprint order, produced from the AOPC’s Magisterial District Judge Computer System, to the summons form which is sent to the defendant (as provided in Pa.R.Crim.P. 510(c)(2)). The fingerprint order sets forth the time, date and location the defendant shall appear before law enforcement personnel to have his/her fingerprints taken.

There are instances when the fingerprint order should not be issued in a summons case. For example, if the defendant’s fingerprints were already obtained by the arresting agency prior to the case being filed with the court, the order is not necessary. Another exception would be when a case is initiated by private criminal complaint: 18 Pa.C.S. § 9112(b)(1) provides that in such cases the fingerprints would only be taken upon conviction of the defendant. Please note that a private criminal complaint is one wherein the affiant is not a law enforcement officer. See Pa.R.Crim.P. 506.

Pursuant to Pa.R.Crim.P. 504(9), the police alert the court as to whether the defendant’s fingerprints have been taken by answering a fingerprint yes/no question on the criminal

---

<sup>1</sup> Fingerprints should be taken of individuals arrested for a felony, misdemeanor or summary offense which becomes a misdemeanor on a second arrest after conviction of that summary offense (as provided in 18 Pa.C.S § 9112(a)).



complaint form. Thus, when the criminal complaint form is filed with the court, court staff will know whether the fingerprint order must be prepared.

Enforcement of the fingerprint order issued in a summons case is also addressed in the Rules of Criminal Procedure. Specifically, Pa.R.Crim.P. 543(c)(3) provides that if the defendant fails to comply with the fingerprint order, the primary mechanism to enforce the order is making compliance of it a bail condition following the preliminary hearing. In addition, the issuing authority who conducted the preliminary hearing is required to send notice of the defendant's non-compliance to the court of common pleas. This notification is provided on the docket transcript form which is prepared by the issuing authority and sent to the court of common pleas as required by Pa.R.Crim.P. 135(B)(9).

As I alluded to earlier, the second instance when a court shall issue a fingerprint order is when a defendant is convicted of a felony or misdemeanor offense that was charged on a private criminal complaint form. The court "shall order the defendant to submit within five days...for fingerprinting by the municipal police of the jurisdiction in which the offense was allegedly committed or, in absence of a police department, the Pennsylvania State Police" (as provided in 18 Pa.C.S. § 9112(b)(2)).

Third, 18 Pa.C.S. § 3929(g) provides that "[p]rior to the commencement of trial or entry of a guilty plea of a defendant 16 years or older accused of the summary offense of retail theft, [the court] shall order the defendant to submit within five days...for fingerprinting by the municipal police of the jurisdiction in which the offense was allegedly committed or the Pennsylvania State Police". The fingerprints shall be forwarded to the Pennsylvania State Police to determine whether the defendant has any prior convictions for retail theft. The court shall not proceed with the trial or entry of guilty plea until this information is provided. The defendant's prior conviction information is necessary to determine the appropriate grade of the retail theft offense before the court.

Fourth, 18 Pa.C.S. § 3929.1(h) provides when a defendant is convicted of library theft, the court "shall order the defendant to submit within five days...for fingerprinting by the municipal police of the jurisdiction in which the offense was committed or the Pennsylvania State Police."

With regard to the information that AOPC provides to the Workgroup, a fingerprint report is generated which consists of a list of cases that were disposed at the Magisterial District Courts level and that includes an offense which requires that a defendant's fingerprints be acquired. This would include cases that are held for court and may not yet have been disposed at the Court of Common Pleas. The candidate cases are then matched to a list of fingerprints as reported by the Pennsylvania State Police.

While courts are not involved in the actual taking of the fingerprints or submission of the fingerprint to the Pennsylvania State Police Central Repository, we are pleased to assist the Fingerprint Compliance Workgroup in this important endeavor. Thank you.