

Pennsylvania State Police Testimony
House Judiciary Committee
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Presented by:
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Good morning Chairman Marsico and members of the House Judiciary Committee. I am Lieutenant Colonel Scott R. Snyder, Deputy Commissioner of Staff for the Pennsylvania State Police. With me today is Lieutenant Kevin Deskiewicz, Director of the Criminal Records and Identification Division. Thank you for the opportunity to appear before you to discuss Pennsylvania's mandatory fingerprint requirements.

The importance of accurate and complete criminal history records cannot be overstated. These records are critical to tactical and strategic decision making at virtually every juncture in the criminal justice system and beyond. Police officers, prosecutors, the judiciary, and other criminal justice entities depend on timely, complete, and accurate criminal history information. Additionally, criminal history records are increasingly used for non-criminal justice purposes, including background checks for employment, volunteer programs, licensing, adoption, citizenship, and firearm purchases.

The process of fingerprinting a suspected criminal is the single most important step in establishing and updating that person's criminal history record. Moreover, it also functions to properly identify a suspect. A criminal history record is initiated upon an arrest and submission of fingerprints to the Pennsylvania State Police Central Repository (PSPCR). A record of the arrest is *not created* without submission of fingerprints related to the arrest. Pennsylvania law provides that the arresting authority shall take 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.

The arresting officer should always ensure that the accused is fingerprinted prior to being released from custody or the preliminary arraignment. Timely submission of fingerprint cards is a statutory requirement pursuant to Crimes Code, Section 9112, which requires an arresting authority, within 48 hours of arrest, to forward fingerprints to the PSPCR. Of course, there are times when complying with this mandate is not practical such as when dealing with a combative, injured, or incapacitated suspect. If the accused is unable to be fingerprinted at the time of arrest, the officer should, at the time the complaint is filed, request the issuing authority to direct the defendant to submit for fingerprinting. When defendants are proceeded against by summons, the court of proper jurisdiction must order the defendant to submit, within five days of such order, for fingerprinting by the police of the jurisdiction in which the offense allegedly was committed.

In addition to the above requirements, a Magisterial District Judge (MDJ) or judge of the Court of Common Pleas is required to issue an order directing a person to be fingerprinted for summary retail theft when the defendant is 16 years of age or older, and upon conviction for library theft. In cases where private complaints for a felony or misdemeanor result in conviction, the court of proper jurisdiction shall order the defendant to be fingerprinted.

The legal requirements surrounding the fingerprinting of juveniles are more nuanced. Law enforcement has the authority to take, or cause to be taken, the fingerprints of any child alleged to have committed a misdemeanor or felony. If the child is adjudicated delinquent or if the case is transferred for criminal prosecution, the law enforcement agency that alleged the child to be a delinquent is required to ensure the fingerprints are taken and forwarded to the PSPCR.

Police officers in Pennsylvania employ two methods for taking an arrested person's fingerprints; manual inking, or the preferred method of electronic Livescan. Presently, there are 309 Livescan devices deployed throughout the state. In April of 2012, the FBI stopped accepting inked fingerprint cards. Irrespective of this, the PSPCR still accepts inked fingerprint cards from agencies that do not have access to a Livescan device. Once received, the inked fingerprint card is electronically scanned and the demographic data is manually keyed. If the prints were not rolled properly, they may be returned to the originating law enforcement agency as unacceptable. If the print card is returned, it is incumbent upon the agency to reprint the offender. This can delay the suspect's positive identification for several weeks. The amount of inked cards processed by the PSPCR fluctuates between four and eight percent of all criminal fingerprint submissions. In 2013, the total fingerprint submissions processed by PSPCR exceeded 800,000; nearly 400,000 of which were criminal related.

Historically, and despite the legal requirements, many persons were not being fingerprinted as required. Various Pennsylvania state agencies have been engaged in

a comprehensive project aimed at improving Pennsylvania's criminal history records, to include assessing why arrest fingerprints were not being submitted to the PSPCR as required. The review found that failure to fingerprint suspects in a timely manner was, in large part, due to deficiencies in policy, practice, training, equipment, and the misinterpretation of the Commonwealth's Rules of Criminal Procedure. The Pennsylvania Commission on Crime and Delinquency (PCCD) subsequently formed a fingerprint compliance committee, which included representatives from PCCD, the PA Office of Attorney General, the Administrative Office of PA Courts (AOPC), the PA Chiefs of Police Association (PCPA), and the Pennsylvania State Police (PSP). The PCCD Fingerprint Compliance Workgroup monitors the fingerprint compliance rate – which can be defined as the match rate of cases disposed of in Pennsylvania's Court of Common Pleas and Magisterial District Court, compared to the fingerprints associated with those cases that are maintained in the PSPCR.

In 2006, the Commonwealth's statewide compliance rate was determined to be approximately 67 percent. Since that time, the PCCD Fingerprint Compliance Workgroup has identified changes needed to increase the compliance rate. A renewed emphasis on police education, training, and awareness was determined to be essential if compliance rates were to improve. Other actions suggested included the use of centralized booking centers when applicable, and the procurement of additional Livescan machines for deployment in the field. Moreover, increased coordination and cooperation between law enforcement, the courts, and district attorney's offices was suggested.

Over the past several years, many of the recommendations made by the working group have been implemented. PSP has created a detailed fingerprint manual to assist state and local law enforcement agencies by providing guidelines for preparing and properly submitting fingerprint cards, whether they are inked or obtained via Livescan. Emphasis is given to the importance of fingerprinting, its legal requirements, and consequences of failing to adhere to those requirements. The Municipal Police Officers Education and Training Commission (MPOETC) covered the topic of mandatory fingerprinting in legal update training in both 2007 and 2013. The subject will again be covered in the MPOETC Mandatory In-Service Training slated for 2015. The PCPA, through their Virtual Training Network, offers online training courses directly related to the subject of fingerprinting. Two courses, "Fingerprint Compliance" and "Livescan," have been taken by thousands of police officers from jurisdictions throughout the Commonwealth. Finally, the PCCD has implemented a web-based digital "dashboard" that details fingerprint compliance percentage rates for the Commonwealth as a whole, for each county, and for each local law enforcement agency. Both police administrators and district attorneys can glean case specific detail through the dashboard in order to identify and correct problem areas that exist.

Although the dashboard data appears to provide a fairly accurate view of compliance, there are several issues affecting the rates that can be misleading. The PSP regularly receives dispositions from AOPC for which there is no corresponding criminal record in the PSPCR. This can occur for several reasons. First, and most

obvious, a law enforcement agency simply fails to fingerprint an accused subsequent to arrest. Failing to fingerprint may occur for any number of reasons. For example, central booking centers may not be conveniently located or are not always operational. In addition, a MDJ may fail to issue a required fingerprint order, or a defendant may not comply with an order that has been issued. However, it is important to note there are situations when a police officer does fingerprint as required, yet the fingerprint card cannot be matched to a disposition resulting in negatively skewed data. Failures can occur when data between the PSPCR and AOPC cannot be matched. Perhaps the most common cause of this issue arises when a duplicate Offense Tracking Number (OTN) is generated for the same offense. This typically occurs when the arresting authority fingerprints an offender using a Livescan device prior to the filing of charges. In these situations, the Livescan generates an OTN, which is linked to the charges associated with the arrest at the time of processing. Problems arise if the MDJ issues another OTN for the same offense when the offender appears in court. The judicial OTN is linked to the final disposition. Other matters affecting compliance rates are incomplete or inaccurate information being recorded on the fingerprint cards, or submission of inked fingerprint cards to the PSPCR that fail quality thresholds. The key to correcting these shortcomings is making the agencies experiencing the problems aware of their existence.

Due to the combined efforts of the Fingerprinting Compliance Workgroup, by the end of 2013, the statewide fingerprint compliance rate rose to 87 percent. Notwithstanding this increase, there remains room for improvement. The PSP suggests the following

actions should be taken. First, the sustained emphasis on the importance of mandatory fingerprinting should continue. All criminal justice agencies benefit from ongoing training and education geared toward fingerprinting and its impact on the criminal justice system. Next, changes to the Judicial Code, Crimes Code, and the Pennsylvania Rules of Criminal Procedure should be considered. Perhaps most significantly, changes should be made that would prohibit a case from advancing past a certain point in the criminal justice process if mandatory fingerprinting has not occurred. We recommend this point be formal arraignment. Philadelphia County, which can boast a near 100 percent fingerprint compliance rate, should be looked to as a model for the rest of the Commonwealth. The Philadelphia Municipal Court operates in such a manner that criminal cases cannot proceed into the system unless a defendant has been fingerprinted. If this approach were to be adopted statewide, fingerprint compliance rates would likely mirror those observed in Philadelphia County. Lastly, in cases where charges are dismissed, withdrawn or plea bargained at the MDJ level to a lesser offense that does not require fingerprinting, case disposition should not be finalized unless and until the defendant has been fingerprinted for the original charges. Moving forward, we would welcome any opportunity to work with the legislature, courts, or other agencies in furthering the goal of improving the fingerprinting process.

Once again, thank you for inviting me to be here. I would be happy to answer any questions you may have.