

Pa. police fail to fingerprint thousands of suspected criminals



Washington County booking center coordinator Lawrence Garner views fingerprints using the LiveScan program.
(Barbara Miller/Observer-Reporter)

By **PublicSource**

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By **Jeffrey Benzing, PublicSource**

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.

- **Local officials admit fingerprinting compliance leaves much to be desired**

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.

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.

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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.

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.

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 Charleroi 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.

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.

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.

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.

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."

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.

[View Larger Map](#)

Source: Pennsylvania Commission on Crime and Delinquency numbers analyzed by [PublicSource](#).

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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.

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