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# TESTIMONY

## House Judiciary Committee

### Public Hearing on Pennsylvania Fingerprint Reporting

Room 140 Main Capitol  
Harrisburg, PA

July 23, 2014

**Mark H. Bergstrom  
Executive Director**



Good morning Chairman Marsico, Chairman Caltagirone and members of the House Judiciary Committee. I am Mark Bergstrom, Executive Director of the Pennsylvania Commission on Sentencing. Thank you for scheduling this public hearing to highlight the importance of fingerprint reporting in Pennsylvania, and to hopefully identify and address any barriers to full compliance.

As you are aware, the Criminal History Record Information Act (CHRIA) requires the arresting authority to fingerprint all persons arrested for a felony, misdemeanor or certain summary offenses within 48 hours of arrest, and to forward the fingerprints to the central repository maintained by the Pennsylvania State Police (18 Pa.C.S. §9112(a)). In cases involving private complaints or summons, the court of proper jurisdiction is required to order the fingerprinting by the municipal police of the jurisdiction in which the offense allegedly occurred within 48 hours (18 Pa.C.S. §9112(b)). Further, the courts and other criminal justice agencies are charged with collecting and submitting reports of dispositions to the central repository within 90 days of the disposition (18 Pa.C.S. §9113).

Two identifiers are central to the management of information contained in the central repository: the offense tracking number (OTN), assigned by the courts and serving as a case identifier; and the state identification (SID) number, assigned by the Pennsylvania State Police and serving as a fingerprint-based individual identifier. The pairing of the OTN with the SID in every case and for every action reported to the central repository is a critical step in assuring all arrest and conviction information associated with an individual is available. Lapses in fingerprinting, failure to report required information and/or inability to link the offense with the offender lead to shortcomings in the criminal history record information, and undermine public safety in Pennsylvania.

As will be noted by others testifying, the collective efforts in recent years by the Administrative Office of Pennsylvania Courts (AOPC), the Pennsylvania State Police (PSP), the Justice Network (JNET) and the Pennsylvania Commission on Crime and Delinquency (PCCD) has been critical in advancing better practices in support of collection and management of criminal history information and in identifying deficiencies in reporting. Longstanding efforts by PCCD to promote central booking centers and PCCD's recent deployment of a fingerprint compliance dashboard with municipal-level information are two of the more visible examples, but also of note are the substantial investments in upgraded technologies and records automation by many state and local agencies.

I will limit my brief remarks this morning to the importance of fingerprint reporting and criminal history integrity to three areas of the Commission's work: the use of conviction information at sentencing; the use of arrest information in determining risk of re-offense; and the use of arrest and conviction information to evaluate the effectiveness of programs, sentences and other dispositions.

The Commission is required by statute to adopt guidelines for sentencing. Among the factors to be considered is criminal history: "... specifying a range of sentences of increased severity for defendants previously convicted of or adjudicated delinquent of one or more misdemeanor or felony offenses committed prior to the current offense." (42 Pa.C.S. §2154(a)(2)). Consideration of previous convictions is required as well in adopting guidelines for fines (42 Pa.C.S. §2154.3). The Commission has a duty to systematically monitor compliance with the guidelines and with mandatory sentencing laws (42 Pa.C.S. §2153(a)(14)), including repeat offender statutes such as Sentences for second and subsequent offenses ("three strikes") (42 Pa.C.S. §9714), Sentences for sex offenders ("Jessica's Law") (42 Pa.C.S. §9718.2) and the enhanced sentencing provisions associated with DUI and Drug trafficking statutes. The increased penalties required by statute are consistent with the view that repeat offenders



are more culpable and blameworthy, and should be subject to enhanced sentences for purposes of retribution, deterrence and/or incapacitation. Missing information on predicate convictions frustrates this legislative intent.

Beyond prior convictions, the Commission is required to consider criminal behavior in the adoption of sentencing and parole guidelines (42 Pa.C.S. §2154.5) and the development of a risk assessment instrument for use at sentencing (42 Pa.C.S. §2154.7). The Commission is also directed to consider the seriousness of violations, including new arrests, in adopting guidelines for re-sentencing (42 Pa.C.S. §2154.4) and ranges for recommitment following revocation of parole (42 Pa.C.S. §2154.6). The reason for considering criminal behavior generally and prior arrests specifically is that research has found that these are strong predictors of future crime. The Commission's risk assessment instrument is intended to "... be used as an aide in evaluating the relative risk that an offender will reoffend and be a risk to public safety" and may "... help determine appropriate candidates for alternative sentencing" (42 Pa.C.S. §2154.7). The Commission's parole guidelines are intended to "...provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety" (42 Pa.C.S. §2154.5(a)(5)). The ability to assess risk of re-offense is greatly diminished without complete and accurate criminal history information.

The third area in which the Commission relies on arrest and conviction information is research and evaluation. The Commission is required to "... collect systematically and disseminate information regarding effectiveness of parole dispositions and sentences imposed" (42 Pa.C.S. §2153(a)(11) and to "... establish a plan and timetable to collect and disseminate information relating to incapacitation, recidivism, deterrence and overall effectiveness of sentences and parole dispositions imposed." (42 Pa.C.S. §2153(a)(13)). Additionally, the Commission is specifically directed to monitor and evaluate the motivational boot camp, the state intermediate punishment (SIP) program, and the recidivism risk reduction incentive (RRRI) program. In all of these areas, a key measure of effectiveness is recidivism, whether determined by re-arrest, re-conviction, and/or re-commitment to jail or prison. The ability to consider all offenses associated with an offender is critical for this analysis, and necessary in order to provide reliable information on program outcomes and to support cost-benefit analysis.

Considering the importance of accurate and complete criminal history record information to public safety and to the work you have entrusted to the Commission, I hope this public hearing will draw attention to the critical role of fingerprint reporting in Pennsylvania. I have long supported the establishment of a 'bright line' in the processing of criminal matters, so that no case could proceed without a valid OTN and SID. However, I recognize that this may not be practical and that a number of factors may make this difficult to implement statewide. And while the Commission has taken steps to require both of these identifiers be included in cases submitted to the Commission, this represents a small percentage of all of the cases processed in Pennsylvania.

Thank you for providing this opportunity to testify.