

Live Scans in Courtrooms – An Examination of Several Pilot Programs in Ohio

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Throughout Ohio, a number of courts are piloting the use of Live Scans in courts as a means of improving criminal history reporting. The concept behind the pilot program, which is funded by a federal grant, is straightforward – equip local courts with small Live Scan units that allow the courts (through the Clerk’s Office, Probation Department or some local variation) to capture fingerprint images as they interact with defendants. The pilot program has been designed to allow each of the local courts to develop their own business work flow that works for their locality. Regardless of when the fingerprints are captured, the images are not transmitted to the Ohio Bureau of Criminal Investigation (BCI) until the final court disposition is entered. Of note, the pilot programs in Ohio are capturing flat images, not rolled prints. The flat prints allow non-law enforcement staff, with minimal training, to capture the images. One limitation is that these prints cannot be sent to the FBI as the FBI currently only accepts rolled prints.

The majority of defendants being fingerprinted by the courts, as a result of this new business process, were initially issued a citation at the time of arrest and released without being fingerprinted. Without fingerprints on file, the arrest (and any resulting disposition) does not become part of the defendant’s official criminal history. If the pilot program proves successful, a greater number of dispositions will be matched with arrests, thus improving the completeness and accuracy of criminal history records.

In May 2013, staff from the National Center for State Courts and SEARCH had the opportunity to visit four sites in Ohio who have fully implemented, or are piloting, Live Scan fingerprinting as part of the court process. Below is a summary of each of the local processes.

Franklin County Municipal Court

While Franklin County (Columbus, Ohio) is not part of the current pilot program, their experiences are of significance. In 2007, the Franklin County Municipal Court Clerk received a grant to purchase two live scan units. The Clerk’s Office worked closely with the Columbus Division of Police to implement finger printing during the criminal arraignment process.

The arraignment calendar in Franklin County is centralized in Courtroom 4C, and is held daily from 8am to 12 noon, Monday through Friday. Judges rotate staffing the arraignment calendar in one week stints. On a daily basis, the Clerk's Office staff prepares a report, using the case management system, of all cases scheduled for the following day. The staff then determines who needs to be fingerprinted based on a list of reportable misdemeanors prepared by BCI. The staff pre-load basic data about the defendants that need to be printed onto a laptop from the Columbus Police Department that syncs with the Live Scan machine. Staff also prepare a court order for these defendant, ordering fingerprints be taken at arraignment.

As defendants appear at arraignment the following day, they "check in" with the clerk. When their case is called, defendants and counsel appear before the judge, who issues the order for fingerprints. The defendant, who is usually accompanied by counsel, exits the courtroom and walks a short distance to a work area where the fingerprints are taken. Unlike the other pilot sites, Franklin County is capturing rolled fingerprints. A civilian employee of the Columbus Police Department is responsible for manning the machines and taking the prints. The prints are then sent electronically to the police department, and, once accepted by that system, are subsequently transmitted to BCI as a daily batch. The print technician signs the defendant's form, indicating that the fingerprints have been taken, and the defendant returns to the courtroom. The defendant's case is then placed into the queue to be heard by the judge.

In this manner, all defendants requiring fingerprints are moved through the system on a daily basis. Generally, about 12-15 sets of fingerprints are taken each day. On Fridays, the calendar is heavy, especially with Operating a Vehicle while Intoxicated (OVI) cases and that number rises to about 35. Also, when football games take place, the number of alcohol-related cases increases.

The process that has been implemented required some changes in legal practice. For example, the bar was informed that attorneys could no longer appear on behalf of their clients in such cases and that defendants were required to come to the courthouse to be fingerprinted. In addition, there was a change in practice that no action would be taken in cases at arraignment until the fingerprinting was complete.

Miamisburg Municipal Court

In contrast to the Franklin County Municipal Court approach, the Miamisburg Municipal Court focuses on capturing missing fingerprints at disposition. When the Clerk's Office initially enters the case into the court case management system, if there is not an incident tracking number (ITN) attached to the paperwork from law enforcement, the clerk's office generates an order requiring the defendant to be fingerprinted by law enforcement. The judge enters the order at arraignment. If the defendant does not comply with the order and/or the Clerk does not receive an ITN by the time the court case is heard for disposition, the Clerk's Office captures the fingerprints. However, the

goal in Miamisburg is for the Clerk's Office to fingerprint only as a last resort and every effort is made to encourage the defendant to be fingerprinted by law enforcement prior to disposition. If the Clerk's Office does end up completing the fingerprinting, the Clerk bills the local law enforcement agency \$15 per defendant fingerprinted. The defendant is unable to pay court fees and fines or obtain program referrals from the Clerk's Office without being fingerprinted. The Clerk's Office submits disposition reports to BCI weekly. The Miamisburg Municipal Court Clerk's Office is submitting approximately 30 dispositions each week. The Miamisburg Municipal Court has chosen to fingerprint defendants charged with theft, even though theft is not a mandatory reportable offense, which increases the number of defendants who need to be fingerprinted.

Barberton Municipal Court

Barberton Municipal Court began their pilot in April 2013. The probation department has taken primary responsibility for completing the fingerprinting process, which is currently being performed post-sentencing, with the exception of those ordered to be printed as part of a presentence investigation. All defendants ordered to probation, as well as defendants ordered to the jail-based programs or counseling, must go to probation directly following court (even before they go to the Clerk's Office) to be fingerprinted. As a result of this new process, probation is printing 20 to 25 people per week. Barberton has chosen to report to BCI all felony offenses and escalating misdemeanor offenses.

The local stakeholders recognize that their current business process results in a gap where defendants who are not sent to probation are not fingerprinted. There are currently discussions taking place among the local stakeholders about modifying the current process to fingerprint all defendants charged with a reportable offense at arraignment.

The primary motivation for the court supporting the pilot project in Barberton was the ability to positively identify defendants and the ability to access a defendant's criminal history record. Under their old process, the probation department had to call a dispatcher to access criminal history information.

Trumbull County Central District Court

When the Trumbull County Central District Court began its pilot program in February 2013, only defendants placed on probation were fingerprinted. However, by May 2013 the court had begun fingerprinting defendants at arraignment. The process is initiated by probation staff, who review each criminal docket and identifies defendants charged with reportable misdemeanor offenses. Based on the results of this review, the probation staff provide the court security staff with a list of defendants who need to be fingerprinted. As defendants arrive for court, the probation officer completes the fingerprinting in the probation office which is located directly across the hall from the

courtroom. Fingerprinting is conducted as part of a local court rule versus court order. The fingerprints are held in the laptop until the point of conviction. Diversion cases are fingerprinted but the dispositions are not sent to BCI until diversion is completed. The probation staff is currently fingerprinting approximately 5 to 10 defendants each week at arraignment which is held on Monday, Wednesday and Friday of each week. Probation staff are also reviewing their existing probation caseload and printing defendants who did not have fingerprints on file from the initial arrest.

The judge's initial support for the project was based on the goal of providing positive identification of the person before the court for trial and sentencing. However, all parties have recognized the benefit of collecting additional information to complete the record. Staff in Trumbull expressed a desire to have rolled print access as the project evolves.

Initial Successes and Implementation Challenges

As the concept of the pilot program was introduced in Ohio, not everyone initially embraced the project. There was concern expressed that fingerprinting is not a judicial responsibility and there was some concern that as law enforcement found out that the courts had the live scan machines that law enforcement would stop printing people. To date, this has not occurred at any of the pilot sites who have been careful to emphasize that the court is using this as "clean up" process where no other solution is feasible. The goal is to continue to have "rolled prints" where possible so that the prints can be submitted to the FBI.

At each of the sites, staff have embraced the importance of gathering fingerprints as a means of having more accurate and complete criminal history records and report commitment to the project because "it's the right thing to do." While each of the sites has implemented slightly different processes, there are several consistent themes that suggest best practices:

- Co-location of the fingerprint work station adjacent to the courtroom, to facilitate efficient compliance and caseflow
- Creation of a court order or a local court rule mandating fingerprints and consistent enforcement of the court's rule that requires fingerprinting before the next action in the case can take place
- Collaboration between law enforcement, the Clerk's Office and probation with a clear division of labor and common goal

All of the staff reported that the training they received to use the machines was sufficient and that the process of capturing and sending the fingerprints is straightforward and manageable within their existing workload. To date, there have

been no challenges to the new processes by the local bar. Most significantly, at each of the sites, the number of dispositions with fingerprints has increased and all of the sites report that their new business processes are operating efficiently.

Ohio faced some specific implementation challenges as a result of having multiple court case management vendors (approximately five). An interface is needed between the court case management system and the Live Scan machine to electronically push data related to demographics and dispositions from one system to the other. Absent the interface, clerks have to manually re-enter demographics and dispositions into the live scan machine to submit disposition information to BCI. Because there are multiple vendors, BCI and the Clerk's Offices have had to negotiate, on a court-by-court basis, the fee to develop the interface and there have challenges with some vendors charging more than has been approved in the grant for the interface. Those that do not have the interface have to separately report dispositions through both the Live Scan machine and the court case management system creating duplicate data entry.

Future Opportunities

While the new processes largely accomplish their initial goal, there continues to be inefficiencies that could be addressed by a greater level of integration. For example, in the Franklin County process, information from the court case management system must be manually rekeyed into the police system instead of that information being transferred electronically. Likewise, the court relies upon paper records to confirm that fingerprints have been taken. Finding a means to use electronic notification would save time and money in terms of printing and storing these records.

The courts report some challenges in maintaining an accurate and up-to-date list of reportable offenses and the offense codes are not systematically updated by the BCI as codes change. The courts do not necessarily have an attorney on staff to perform this function which can result in some challenges.

Finally, as the pilot period comes to the end at some sites, the courts may struggle with funding the cost of the maintenance fees on the Live Scans and will need to negotiate with the local stakeholders on how to cover this expense. Some courts have a technology fund that could be used to cover these fees but others may not have the funds to maintain the units.



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