



# Fingerprint Submission Compliance Assessment

Wyatt Pettengill

SBI Special Agent in Charge

January 25, 2019

# What Offenses Require Fingerprints at Arrest?

- All Felonies - G.S. 15A-502 (Even if the person was printed yesterday)
- The following misdemeanors:
  - G.S. 14-134.3 (Domestic criminal trespass)
  - G.S. 15A-1382.1 (Offense that involved domestic violence)
  - G.S. 50B-4.1 (Violation of a valid protective order)
  - G.S. 20-138.1 (Impaired driving)
  - G.S. 20-138.2 (Impaired driving in commercial vehicle)
  - G.S. 20-138.2A (Operating a commercial vehicle NC General Statutes - Chapter 15A Article 23 2 after consuming alcohol)
  - G.S. 20-138.2B (Operating various school, child care, EMS, firefighting, or law enforcement vehicles after consuming alcohol)
  - G.S. 90-95(a)(3)(Possession of a controlled substance)
- Additional fingerprints may be taken if authorized by the Senior Resident Superior Court Judge or Law Enforcement Agency Head



# Juvenile Fingerprints

- Though not included in the Arrest/NICS data included in this presentation § 7B-2102 authorizes the fingerprinting of juveniles for nondivertible offenses.
  - (a) A law enforcement officer or agency **shall** fingerprint and photograph a juvenile who was 10 years of age or older at the time the juvenile allegedly committed a nondivertible offense as set forth in G.S. 7B-1701, when a complaint has been prepared for filing as a petition and the juvenile is in physical custody of law enforcement or the Division. “
  - (b) If a law enforcement officer or agency does not take the fingerprints or a photograph of the juvenile pursuant to subsection (a) of this section or the fingerprints or photograph have been destroyed pursuant to subsection (e) of this section, a law enforcement officer or agency shall fingerprint and photograph a juvenile who has been adjudicated delinquent if the juvenile was 10 years of age or older at the time the juvenile committed an offense that would be a felony if committed by an adult.

# What is a Nondivertible Offense?

- (1) Murder;
- (2) First-degree rape or second degree rape;
- (3) First-degree sexual offense or second degree sexual offense;
- (4) Arson;
- (5) Any violation of Article 5, Chapter 90 of the General Statutes that would constitute a felony if committed by an adult; (Controlled Substances)
- (6) First degree burglary;
- (7) Crime against nature; or
- (8) Any felony which involves the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon

What  
information  
should be  
provided at  
time of arrest?

- Per § 15A-502(a3) It shall be the duty of the arresting law enforcement agency to cause a person charged with a crime to provide to the magistrate as much of the following information as possible for the person arrested:
  - Name including first, last, middle, maiden, and nickname or alias.
  - Address including street, city, and state.
  - Drivers license number and state of issuance.
  - Date of birth.
  - Sex.
  - Race.
  - Social Security number.

# Did you know?



- The information collected at arrest is later matched to court information from the Administrative Office of the Courts (AOC).
- If the fingerprints are not taken at arrest or the court information cannot be matched between the SBI and AOC, the SBI is unable to accept the disposition information.

# Current Projects

- SBI has partnered with the NC Government Data Analytics Center (GDAC) and SAS Institute to evaluate:
  - Offenses that should have had fingerprints at arrest.
  - Offenses that should have been submitted to the FBI National Instant Criminal Background Check System (NICS) as firearm disqualifiers.

# What did this analysis reveal about fingerprint submissions?

- Over the last ten (10) years, an alarmingly high percentage of offenses that should have had fingerprints taken at arrest were not reported to the SBI.

## Why Is This Important?

- Lack of Positive Identification – Fingerprints can provide supporting evidence for establishing a pattern of criminal behavior when challenged in court.
- If the arrest information is not reported to the SBI, the arrest information is not available for criminal background checks conducted for pre-employment, licensing, and certification purposes.
- If the arrest information is not reported to the SBI, the arrest and corresponding conviction information is not available when determining the lawfulness of a firearms transfer. Also, firearm prohibitors are not being sent to NICS for felony convictions. This could result in convicted felons being able to purchase a firearm from a licensed federal firearms dealer.
- Latent Cases – If the fingerprints are not reported to the SBI, they are not available to search against unidentified fingerprints recovered from crime scenes.

# Statewide Qualifying Arrests without Fingerprints

Case Year	Total Fingerprintable Cases	Total Qualifying Cases without Fingerprints	%Missing Fingerprint
2018 * As of June	84,362	26,784	31.75%
2017	161,823	44,443	27.46%
2016	117,546	29,311	24.94%
2015	70,197	13,956	19.88%
2014	55,368	6,418	11.59%
2013	58,130	6,102	10.50%
2012	55,315	5,784	10.46%
2011	56,891	5,667	9.96%
2010	57,410	4,887	8.51%
2009	60,438	4,664	7.72%
2008	65,343	5,628	8.61%

# Reasons Why Fingerprints May Be Missing

- Fingerprints were not taken, biographic and charge information only reported to the court.
- Fingerprints were taken, but not submitted to SBI.
- Fingerprints were taken and submitted to SBI, but rejected by SBI or FBI due to poor fingerprint quality or other data quality issues.



## Evaluation of the Records Eligible but Missing from NICS

- Analysis of AOC offenses with a guilty verdict and no fingerprint. Note the records spanned from 1973 - 2018
- Based on this analysis, the SBI was able to submit approximately 175,000 additional offenses for over 90,000 offenders to NICS as firearm prohibitors.
- Approximately 24,000 offenders were from the Middle District.



# What types of offenses were commonly missing in the conviction data sent to NICS?

- Breaking and Entering
- Breaking and Entering a Motor Vehicle
- Common Law Robbery
- Embezzlement
- Felony Larceny
- Felony Possession of Cocaine
- Forgery of Instrument
- Indecent Liberties with Child
- Larceny After Breaking and Entering
- Obtain Property False Pretense
- Possession of Stolen Goods
- PWISD Cocaine
- Robbery with Dangerous Weapon

# Interesting Fact

- The records were submitted to NICS beginning in mid-December and were uploaded in batches of approximately 9,000.
- In less than 2 weeks there were 11 denials for handgun purchases based only these newly added records. 9 in NC, 1 in MD, and 1 in VA



## NC Gen§ 15A-502(f)

If a person is charged with an offense for which fingerprints are required pursuant to this section but the person is not arrested for that offense, the court before which the charge is pending shall order the defendant to submit to fingerprinting by the Sheriff or other appropriate law enforcement agency at the earliest practical opportunity. If the person fails to appear for fingerprinting as ordered by the court, the sheriff shall so inform the court, and the court may initiate proceedings for criminal contempt against the person pursuant to G.S. 5A-15, including issue of an order for arrest pursuant to G.S. 5A-16, if necessary. The defendant shall continue to be subject to the court's order to provide fingerprints until submitted.

- To assist with this statute and overall acquisition of fingerprints:
  - CJLEADS (Criminal Justice Law Enforcement Automated Data Services) now has a fingerprint required flag on all qualifying offenses
  - AOC Court Docket has added a fingerprint required indicator

# Questions

