



# Your Agency's Role in a Case and Criminal History

TAC Conference 2020



# Overview

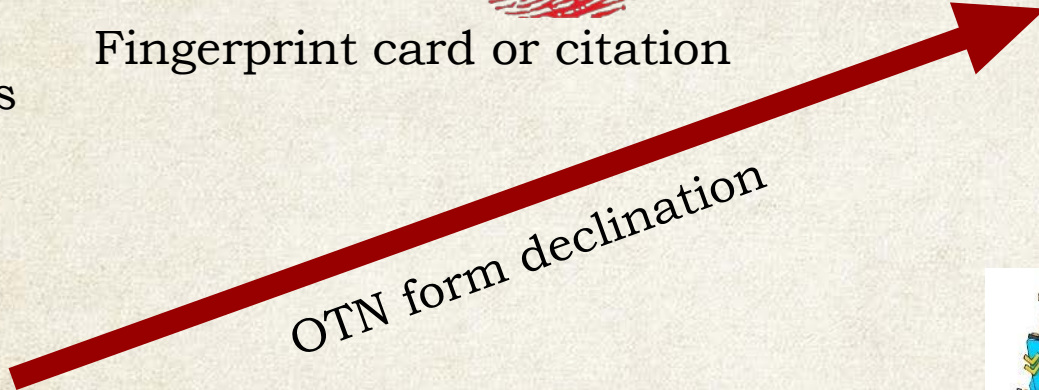


Arrest/Summons



BCI

Fingerprint card or citation



OTN form declination



Prosecutor



OTN from disposition



Courts





# Law Enforcement's Role



## **Submitting to BCI**

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UCA 53-10-207(1-2)

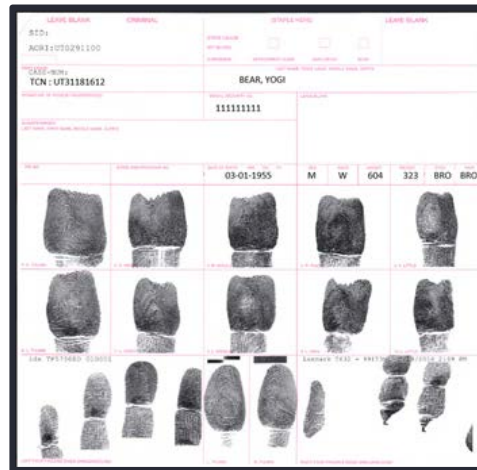
Every peace officer shall:  
Obtain fingerprints and forward  
Without delay to the division (BCI)



## How Does it all Begin?



Single-print citation



Ten-print card



## Fingerprinting

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- ◆ When fingerprinting an offender be sure to print them properly
  - ◆ Good slap prints
  - ◆ Good roll prints
- ◆ If bad prints or no prints are submitted to BCI
  - ◆ No RAP sheet can be created in Utah Criminal History
  - ◆ Dispositions sent to BCI cannot be added
  - ◆ New arrests cannot be added





## Good Prints



“Slap” print example

- ◆ Whorl pattern is visible
- ◆ Deltas are present
- ◆ Ridge detail is clear
- ◆ Easily be compared by AFIS



## Good Prints



### “Roll” print example

- ◇ Rolled nail to nail
- ◇ First knuckle detail
- ◇ Left slant loop pattern
- ◇ Deltas are present
- ◇ Ridge detail is clear
- ◇ Easily be compared by AFIS





## Bad Prints

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- ◇ Not rolled
- ◇ Fingertip only
- ◇ Loops and whorls not visible



## No Fingerprints

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If BCI doesn't receive fingerprints from law enforcement, then BCI can't add the arrest to the criminals RAP sheet



## Common Fingerprint Problems

Officer's prints







## **Filing Charges with Prosecutor**

UCA 53-10-207(1-2)

The arresting or citing agency makes the decision  
not file the charges with the prosecutor



# Prosecutor's Role



## Prosecutor's Role

### UCA 77-2-3

The prosecutor may, without approval of a magistrate, authorize termination of investigative action when it appears that further investigative action is not in the public interest

- ◇ The prosecutor will decide whether or not to prosecute
- ◇ If not prosecuted, a Declination Prosecution Notice is sent to BCI
- ◇ If prosecuted, the case will go to court





## Declined to Prosecute

- ◆ Declinations are sent to BCI Records section
- ◆ Can be sent via fax, email, or through the mail

### GOTHAM CITY ATTORNEY'S OFFICE



August 12, 2020

Deputy Gordon Gotham City Police Department

AGENCY CASE #: S12-3456

#### DECLINE PROSECUTION NOTICE

Two attorneys in our office have individually reviewed the above- referenced case. Based upon that review, it has been decided that our office will NOT be filing charges at this time. The details of the declined case are as follows:

ATTORNEY OFFICE CASE #: 013579024

PROSECUTOR: Name

CASE OFFICER: Name

CASE AGENCY: Gotham City PD

DEFENDANT NAME: Joker

DEFENDANT DOB: 02/09/1960

CHARGES REQUESTED AND DECLINE

REASONS:

**COUNT: 1 RECKLESS BURNING STATUTE: 76-6-104(1)(c) LEVEL: Class B Misdemeanor**  
**OFFENSE DATE: 05/17/2020 DECLINE REASON:** After reviewing the information received, there is insufficient evidence to proceed with prosecution. Pursuant to UCA 76-6-104(1) Reckless Burning there are four ways to prove this count. Subsections (a)(b) and (d) all require that the property burned be the property of another. That is not the case here. Subsection (c) requires that no reasonable steps were taken to remove the flammable materials. No pictures were taken of the incident. The only information received is not sufficient to prove this section. More information was requested on June 16, 2020, and as of the date of this declination, none was received. A phone call was made August 12, 2020 to the case officer who requested we not file the case.

In the event that further evidence is developed in the case, please advise our office by re-submitting the case for a new review. If you believe that this decision has been made in error, please discuss the case personally with Tegan Troutner.

Sincerely Yours,

Prosecutor



# Court Role



## Courts

- ◆ Can check to verify the arrest is on the defendant's Criminal Hi
  - ◆ If the arrest doesn't show up, send the defendant to be printed
    - ◆ The original arresting agency or jail is the best place
    - ◆ **BCI CANNOT DO FINGERPRINTS FOR THOSE CRIMINAL CHARGES**
- ◆ Need to submit disposition to BCI
  - ◆ Fax
  - ◆ Email
  - ◆ Regular mail
  - ◆ Electronically





## Case files

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- ◆ Keep court dockets updated
  - ◆ BCI uses those for expungement, firearm permits, firearm purchases and updating records
  - ◆ Used by PD's, attorney's office and probation offices to ensure a warrant is still outstanding, pre-trial investigations, pre-sentence investigations, etc



## Warrants

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- ◆ Courts will issue Statewide warrants
  - ◆ Felony warrants and misd Failure to Register as Sex Offenders will be added to NCIC through the SWW NCIC batch job



## Protective Orders

- ◆ Issued by the courts removed when no longer needed

Utah Criminal Justice Information System	
aleidig 02/09/2016 12:18	
<b>Utah Protective Order</b>	
** NOT A WARRANT **	
** DO NOT ARREST BASED ON THIS RESPONSE **	
** UNLESS ORDER IS VIOLATED **	
Type: Jail Release Agreement	
Status: EXPIRED	
<b>Defendant</b>	
Last Name: BEAR	Social Security Number: 899999999
First Name: YOGI	Sex: M
Date of Birth: 02/11/1950	Height: 605
Address 1: 4501 S 2700 W	Weight: 380
WEST VALLEY	Eye Color: Brown
UT 84119	Hair Color: Brown
DL#/State: 172443851/UT	Race: Unknown
<b>Plaintiff/Victim</b>	
Last Name: BEAR	
First Name: BATHSHEBA	
Middle Name: FAKETEST	
Date of Birth: 01/01/1955	
Address 1: 4501 S 2700 W	
WEST VALLEY	
UT 84119	
<b>Other Protected Persons</b>	
<b>(Last, First / Relation to Defendant/Respondent)</b>	
BEAR, SMOKEY TEST / Unknown	
<b>Court/Service Information</b>	
OTN: 37561644	Served by Name: UT BUREAU OF CRIM IDENT

**\*\*Expired PO's will remain in UCJIS the user will have the option to search them or not**







**ARREST CHARGES:**

**ARRESTING CHARGE:** SEXUAL CONDUCT-UNLAWFUL

**STATUTE:** UNKNOWN

**JURISDICTION:** UNKNOWN

**NCIC CODE:** 1199 - SEX ASSAULT

**SEVERITY:** FELONY

**COURT OF NEXT APPEARANCE:** 3RD DISTRICT COURT WEST JORDAN(UT018065J)

**CHARGE TYPE:** UNKNOWN(XX)

**COURT ACTION:**

**AGENCY:** 3RD DISTRICT COURT WEST JORDAN (UT018065J)

**CASE NUMBER:** 101400616

**CHARGES DISPOSED OF:**

**OFFENSE LITERAL:** SEXUAL BATTERY

**STATUTE:** 76-9-702(3)

**JURISDICTION:** UNKNOWN

**NCIC CODE:** 3699 - SEX OFFENSE

**PRE-CONVERSION NCIC LITERAL:** SEXUAL BATTERY

**SEVERITY:** MISDEMEANOR A

**PLEA:** GUILTY

**PLEA DATE:**

**DISPOSITION:** CONVICTED

**COURT ACTION DATE:** 9/14/2010

**DISPOSITION COMMENTS:**

CONVERSION ACTION = CONVICTED

**JAIL SENTENCED:** 365 DAYS

**PROBATION SENTENCED:** 1080 DAYS



## No Disposition

- ◆ If the court disposition isn't on the criminal record for that arrest:
  - ◆ Resend via fax, email
  - ◆ Look in suspense if sent electronically
    - ◆ Fix any errors with Name, DOB, OTN and SID and resend



# Probation and Parole





## Pretrial Services

- ◆ Keep defendants reminded of their court appearances and any check ins they are required to perform
- ◆ Monitor court ordered release conditions
- ◆ Reports noncompliance to the court
- ◆ Provides support to defendants

**DON'T MAKE ARRESTS OR CONDUCT HOME VISITS**



## Probation & Parole

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- ◆ Completes Presentence Investigation reports
- ◆ Works with offenders to ensure compliance



## Probation Officers

- ◇ Communicates with the courts
- ◇ Monitors the offenders for compliance to court orders
- ◇ Has in office and home visits with offender
- ◇ Makes arrests for violating probation conditions
- ◇ Request probation to be terminated once the probation terms have been met



## Parole Officers

- ◆ Communicates with the Prison as well as the Board of Pardon and Parole (BOPP)
- ◆ Monitors the offenders to ensure compliance to parole orders
- ◆ Has in office and home visits with the offender
- ◆ Makes arrests for violation of BOPP orders in Prison pending parole revocation hearing
- ◆ Requests parole to be terminated once BOPP conditions are met





## OTRK

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- ◇ Corrections information is entered into ORTK for law enforcement to see conditions, and the assigned staff in case they need to contact anyone regarding the individual



Query Results x BEAR, YOGI - 215915 - NONE x

Race: CAUCASIAN W

Marital Status: married

Available

Gender: Male

Residence (1)

Aliases (4)

DOBS (1)

Offender IDs (4)

Scars, Marks, and Tattoos (16)

Current Location (1)

Legal Status History (2)

Assigned Staff

UDC Cases (4)

Gang Affiliation (3)

Vehicles (1)

Employment (1)

Travel Permits (1)

Alerts (1)

Probation/Parole Conditions [58]

Photos (0)



# Expungement



## Expungement How to:

- ◆ State Statute provides for an expungement of criminal arrests
- ◆ There are two ways to expunge a record
  - ◆ Through BCI
  - ◆ Auto expungements through the court (you do not apply for this)





# Expungement BCI

- ◆ Apply in person at BCI
- ◆ Download the application from BCI webpage and mail the form to:

Utah BCI  
3888 West 5400 South  
Taylorsville, UT 84129

<b>E</b> APPLICATION FOR CERTIFICATE OF ELIGIBILITY Utah Department of Public Safety • Bureau of Criminal Identification 3888 West 5400 South, Taylorsville, Utah 84129	
<small>WHEN FILLING OUT THIS APPLICATION TYPE OR PRINT IN BLACK INK. Your application will not be processed unless all sections of this form are filled out completely and accompanied by a \$50.00 application fee.</small>	
NAME: _____ <small>(Last Name) (First Name) (Middle Name)</small>	DATE OF BIRTH _____
PREVIOUSLY USED NAME(S) (Maiden, AKA, etc.) _____	
MAILING ADDRESS: _____ <small>(Street/Box number) (City) (State) (Zip)</small>	
SOCIAL SECURITY: _____ DRIVER LICENSE # AND STATE: _____ / _____	
HOME PHONE NUMBER: _____ DAYTIME PHONE NUMBER: _____	
<b>G CHECK BOX IF TRAFFIC EXPUNGEMENT IS WANTED. ADDITIONAL FEES WILL APPLY AND CHARGES WILL ONLY BE DELETED FROM COURT RECORDS, NOT FROM DRIVER LICENSE FILES.</b>	
<b>D CHECK BOX IF ACQUITTAL DOCUMENTATION MUST BE PROVIDED FOR EXPEDITED PROCESSING:</b>	
<small>Pursuant to Utah Code Ann. § 77-40-106(1)(b), a petitioner who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6. A certification of eligibility or an application for expungement may be denied if the petitioner provides false information.</small>	
I, _____, declare under criminal penalty of the State of Utah that the foregoing is true and correct. <small>(Name of Petitioner)</small>	
Executed on: _____ <small>(Date)</small>	
Executed by: _____ <small>(Signature)</small>	
<b>METHOD OF PAYMENT (Only to be filled out if application is mailed in. Check appropriate box for payment) \$50.00 FEE</b>	
<input type="checkbox"/> Check, Money Order or Cashier's Check (Payable to "Utah Bureau of Criminal Identification" in the amount of \$50.00)	
<input type="checkbox"/> Credit Card (cannot use foreign credit cards and must be: <input type="checkbox"/> Visa <input type="checkbox"/> MasterCard or <input type="checkbox"/> AMEX. Fill-out info below to pay by credit card.	
<small>Credit Card payment must include 3-digit control number found on the back of the credit card. There is a \$20.00 service charge for any returned check.</small>	
<small>Credit Card Number</small> _____	<small>* See 4-digit control #</small> _____
<small>Expiration Date</small> _____	_____
PRINT NAME as it appears on the card _____ Zip code: _____	
<small>Cardholder signature</small> _____ <small>Date</small> _____	
<b>FINGERPRINT INSTRUCTIONS: (OFFICIAL TAKING PRINTS)</b> Confirm identity of applicant with identification that shows photo, signature and date of birth. Confirm ID with the information above, then list the type of government issued ID used and the ID number in the space provided below. Fingerprint the four fingers of the applicant's right hand simultaneously in the box located in the lower right portion of this form.	
<b>OFFICIAL TAKING PRINTS</b>	<b>FINGERPRINTS</b>
Type of identification used: _____ <small>Utah Driving Privilege Cards are not valid ID and will not be accepted</small>	
Identification number: _____	
Name on ID: _____	
Fingerprint taken by: _____ <small>(Print Name)</small>	
Agency Name: _____ Badge # _____ <small>(If applicable)</small>	
Date Printed: _____	
<b>BUREAU USE ONLY</b> AFIS Confirmation: _____	
SDW: _____ RUF: _____	
<small>Last updated 4-11-2017</small>	



## Expungement BCI

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- ◇ Every applicant will receive a mailed notification regarding their eligibility- this will include the certificate if the fee has been paid or there is no fee associated with the expungement
- ◇ The time frame between applying and receiving the decision letter may vary depending on the number of applications at the time



## Expungement BCI

- ◆ There are 2 types of approval of expungement
  - ◆ Partial: select arrests are eligible for expungement
  - ◆ Complete: the entire SID is eligible for expungement
- ◆ Once certificates are completed
  - ◆ BCI sends a copy of the Expungement Order to the FBI to have the arrest taken off FBI record
  - ◆ BCI seals the record
  - ◆ A confirmation letter is sent to the individual confirming the expungement has taken place




## Auto Expungements Courts

- ◆ Not initiated by anyone but the court
  - ◆ Court report automatically goes through court records and expunges the eligible records with a batch job
  - ◆ Broadcast message is sent to each agency involved in the expunged arrest





# Auto Expungement Broadcast

 **UCJIS**  
Utah Criminal Justice  
Information System

BMSGL

▲ (135) UTAH AMBER ALER...

CHRIS KE

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UCJIS Home BMSGL x

Query Results x AE-49827 x

### Broadcast Message Entry

Created by ckennard on 05/14/2020 12:27:35

#### Message Details

ORI:

Message Type:

Message: 

Name: CHAD BRIAN HARDY SID: 321323 FBI Number: 9007700 OTN:  
ZZ004107 Court Case Number: 195101624 Arrest Date: <not provided> Date  
processed: 2020-05-12  
SID was successfully removed.  
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Start Date:



## Questions Asked During TAC Conference

1. *Is there a specific form Prosecutors are supposed to use for declined cases?*
  - a. A Letter of Declination is the only thing we will need
2. *What consequence is there when this is not followed?*
  - a. Criminal History is not accurate
3. *Will we be notified if the prints were rejected?*
  - a. BCI will notify you if the prints are rejected. At that point, it is the submitting agency's job to get better prints



## Questions Asked During TAC Conference

4. *Quick question on Declination to Prosecute...whose role is it to notify BCI on the declinations of charges? The prosecutors or the officer?*
  - a. The Prosecutors
  
5. *We have been getting a new OTN for the “new” misdemeanor case...this correct?*
  - a. No, you do not need to get a new OTN. It will all be attached to the initial OTN.



## Questions Asked During TAC Conference

6. *Question regarding fingerprints: Many of our LEO are using citations, how can they get prints to submit to BCI? On Cite and release offenses*
  - a. They can contact our AFIS Section at [dpsafis@utah.gov](mailto:dpsafis@utah.gov)
7. *Does BCI have a 90 day limit (since expungement request initiated) or hearing from courts on expungements? we just received a request and don't have time to make that deadline if applicable?*
  - a. The certificates just need to be turned into the court before they expire. It doesn't matter how long the process is in the court. See question #28





## Questions Asked During TAC Conference

- 8. Are we supposed to be watching for these auto expungements and then expunging records from our systems as well?*

  - a. If you receive the AE broadcast messages, you will need to follow the proper protocol for your agency to expunge those records.
- 9. How will prosecutor offices be notified of the auto expungements?*

  - a. With Auto Expungements, everyone will be notified via UCJIS AE broadcast messages.
- 10. Does anyone know if these auto expungements have started?*

  - a. The Auto Expungements have not started. The broadcast messages are ready on our side when that gets put in place by the courts. We have no time frame when these will start.



## Questions Asked During TAC Conference

- 11. We have been getting one charge certificate of expungement when there are two charges in a case. Why is that happening? Courts can only expunge a case not a charge*
- a. This could be due to what is contained on that OTN. If you have someone arrested with warrants, all warrants for that new booking will be listed on the same OTN leaving you with many cases linked to that one OTN. AFIS will keep the best prints on file for that specific case, meaning that the original citation or 10 print card may not be used and a new OTN from the booking of the warrants will have the cases listed under it. It could be that one charge is traffic or considered ~~serious~~, which in turn means it shouldn't have been added to the criminal history.



## Questions Asked During TAC Conference

*12. What Transaction will the auto expungements come through in the broadcast?*

a. AE

*13. When the County Attorney declines a case where an individual has been Booked...And it is referred to the city attorney*

a. If the County attorney declines a case, they will send the declination into BCI. When it gets referred to the City attorney, that information will be sent to BCI. If the city attorney declines to prosecute, that declination will be added to the OTN. If they prosecute, we will end up with a disposition from the new court.

*14. Will there be a manual set up for the auto expungements?*

a. We aren't 100% sure on that. If there will be one, it will be provided by the AOC and not BCI. We have heard that there will be manuals and training provided, but it hasn't been confirmed.



# Questions

