

PREPARED STATEMENT

OF

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ON

DEFENDANTS' CRIMINAL RECORDS

BEFORE

**UNITED STATES SENTENCING COMMISSION
WASHINGTON, D. C.**

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Chairman and Members of the United States Sentencing Commission

Mr. Chairman, I am Donald L. Chamlee, Chief of the Division of Probation of the Administrative Office of the United States Courts. I appreciate the opportunity to appear today and address the Commission's concerns about how a defendant's criminal record should affect his sentence.

To briefly describe my background, I entered the Federal Probation System in 1961 as a U.S. Probation Officer in Sacramento, California. Prior to that time I worked as a county probation officer and state parole officer in California. I came to Washington, D.C. in 1968 and have held a variety of positions in the Probation Division, including Editor of Federal Probation Quarterly and Deputy Chief. I assumed my present position in December 1983. I hold Bachelor's and Master's degrees in Criminology from the University of California at Berkeley and in 1972 completed a 1-year criminal justice fellowship at Harvard Law School.

My remarks today cover three major areas: the current standards in the Federal Probation System relating to prior criminal records, how those standards translate into statistical information that is currently available, and what can we tell you about availability and reliability of prior criminal record information - the questions raised by the Chairman in his May 1, 1986 letter inviting this appearance. To better respond to the last question our office has conducted a telephone survey of 39 probation offices and I will report on those results.

CURRENT STANDARDS

Much of the investigative activities of the Federal Probation System involve the preparation of presentence investigation reports to aid the court in imposing sentence. Critical to that process is the assembly of a complete and verified prior criminal record for a convicted defendant. Rule 32(c) of the Federal Rules of Criminal Procedure is the probation officer's authorization for preparing presentence reports. It specifies what the presentence report shall contain, i.e., "(A) any prior criminal record of the defendant; (B) a statement of the circumstances of the commission of the offense and circumstances affecting the defendant's behavior; (C) information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense; and (D) any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense." Rule 32 does not exclude any specific kinds of information. Case law has imposed, however, some limitations on the information contained in the presentence report. In making its sentencing decision the court is prohibited from considering prior convictions of a defendant that were invalid because, in violation of his sixth amendment right to counsel, he had not been represented by counsel or had not properly waived counsel. Similarly, the court is prohibited from treating as a conviction any previous criminal charges against the defendant that resulted in dismissal or acquittal.

Leading appellate decisions hold that information to be used in imposing sentence, including the prior criminal record, must be inherently reliable. In United States v. Tucker, 404 U.S. 443 (1972), the Supreme Court ruled that it was unconstitutional for a court to consider in its sentencing decision prior convictions of the defendant that were invalid because counsel had not represented the defendant or no waiver of counsel had been made (violation of sixth amendment). Prior criminal record is a determinative factor in sentencing; however, unconstitutional convictions may not serve to enhance the sentence an offender receives. The rationale of Tucker is that consideration of invalid prior convictions in sentencing misinforms rather than informs the court's discretionary judgment.

Accordingly, since convictions obtained in violation of a defendant's sixth amendment rights are improperly relied on as prior record, it is incumbent on the probation officer preparing the presentence report to verify, during the course of his investigation, whether the defendant's previous convictions 1/ were obtained when the defendant was represented by or waived counsel.

1/Under present constitutional doctrine no criminal defendant may be deprived of his liberty as the result of any criminal conviction, whether felony or misdemeanor, unless he was afforded the right to counsel. See Argersinger v. Hamlin, 407 U.S. 25, 37 (1972). As a general rule, a defendant has a right to counsel in all felony cases and in all other offenses for which incarceration is a potential penalty.

Examination of the court record relating to such convictions ordinarily provides the requisite information. The verification and its results should be listed for each prior conviction. It is the court's responsibility to disclaim on the record reliance on invalid convictions at the time of imposing sentence.

A second limitation which the Supreme Court has placed on sentencing information is found in Townsend v. Burke, 334 U.S. 736 (1948). In Townsend the Court ruled invalid the sentencing of a defendant based on assumptions about his criminal record that were materially false. For example, the sentencing court in Townsend had treated as convictions previous criminal charges against the defendant that either had been dismissed or had resulted in acquittals. This rule of accuracy applies to all data in a presentence report because it is a patent violation of due process to sentence on the basis of materially false information.

Probation officers are required to verify the facts contained in the presentence investigation report. Any unverified information is to be clearly labeled as such. The standards to be followed by probation officers are set forth in a monograph, The Presentence Investigation Report, Publication 105, Probation Division, Administrative Office of the United States Courts, April 1984. The current standards relative to the prior criminal record are contained in Appendix A.

Before moving on to the second major topic, I will discuss a special case, juvenile adjudication records. As described in Appendix A, the prior record section of presentence investigation reports contains only records of referrals to juvenile court for acts which, if committed by an adult, would constitute a crime. "Status offenses," such as runaways, truant, beyond parental control, are not considered crimes and are described in the Personal and Family Data Section of the report. Juvenile adjudication records in the report are limited, therefore, to crimes or alleged crimes.

As the Commission is aware, juvenile records are not uniformly available, and state laws vary considerably, affecting a Federal Probation officer's access to sealed, expunged, terminated, and active records. In 1982, the General Accounting Office reported on this problem in its report, Federal Parole Practices: Better Management and Legislative Changes Are Needed, GAO, July 16, 1982. The report notes that 94 judicial districts were surveyed, 90 responded, and 58 reported some problems in obtaining juvenile reports. The pertinent pages from the report are attached as Appendix B. Not only do state laws vary, there are differences between Federal circuits. Also, at Appendix B, is an opinion of the Eighth Circuit, U.S. v. Slipka, 735 F.2d 1064 (8th Cir. 1984), which extends the ruling of U.S. v. Tucker, cited above, to juvenile adjudications. In the Eighth Circuit therefore, district courts may not use a juvenile adjudication where there was no meaningful right to counsel, even if the adjudication was

made prior to the 1967 Gault 2/ decision. Other circuits have not ruled on this issue, and presumably pre-1967 uncounselled juvenile adjudications would still appear in presentence reports in those circuits.

CURRENTLY AVAILABLE STATISTICAL INFORMATION

Prior criminal record information is collected principally for the presentence investigation report. That is the core, and a number of additional uses flow from it. Criminal record data are used in actuarial predictive devices that we rely on in assigning persons on probation or parole to high or low activity supervision. The record information also contributes to our statistical information system. In 1983, in anticipation of the creation of the Sentencing Commission, the Federal Probation System initiated a new and expanded data collection system. Known as FPSSIS, the Federal Probation Sentencing and Statistical Information System, this system collects substantially more data about offenses and offenders than the previous statistical system. FPSSIS was designed to provide support for the creation of sentencing guidelines.

2/In Re Gault, 387 U.S. 1 (1967) (Juvenile must be advised of his right to be represented by counsel and, if he is unable to afford counsel, that counsel will be appointed.)

After sentencing, the probation officer reports a summary of prior record information to the FPSSIS database in Washington, D.C. This information includes:

- the number of prior juvenile adjudications
- the number of prior adult convictions
- the number of major and minor prior commitments.

Also reported is:

- whether any of the prior conviction offenses were substantially the same as the instant offense
- whether the defendant experienced prior revocation of supervised terms of probation, parole, or pretrial release
- whether the defendant was under criminal justice jurisdiction, such as bail release, probation, or in escape status, for another offense at the time of the instant offense or sentencing for the instant offense
- whether the defendant was in prison within the past 60 months.

Because of the need to limit the complexity of the coding, much potentially useful information is not captured. For instance, one cannot learn of the nature of prior offenses from FPSSIS. Hence we cannot know if there is a history of violence or whether the prior record is ancient. Moreover, we cannot know whether the defendant adjusted well to prior terms of probation or terms in prison.

For the past 8 years we have also been developing the Probation Information Management System (PIMS) which is currently in pilot testing in the Northern District of Ohio. This system was also designed with the presumed needs of the Sentencing Commission in mind. PIMS captures far more detailed prior record information than does FPSSIS. Through it we can know the nature of prior offenses, how long

ago they occurred, whether violence was involved, and adjustment to previous terms of community supervision.

I shall now turn to the third, and final, part of my remarks - the results of our telephone survey of 39 probation offices.

To determine the availability of prior record information to probation officers conducting presentence investigation reports, the Division conducted a survey of 39 of the 94 Federal court districts. At least one district was contacted in most states. The survey instrument was structured to cover accessibility of all aspects of the nature of prior convictions (see Appendix C). Due to time constraints the survey sought to elicit a representative sampling for the Commission's inquiry and is not presented as a scientifically valid study. The survey was taken by telephone and handled by two officers with current field experience. The questions were posed in a consistent manner. The chief in each district was the principal respondent and the areas covered were:

- felony vs. misdemeanor vs. petty offense
- availability of offense description details
- representation by counsel
- subsequent supervision revocation
- type of supervision termination and date
- availability of juvenile offense data
- tribal offense data
- foreign offense data.

A tabulation of the survey results (see Appendix C) shows that 31 of the 39 respondent districts have access to centralized criminal history facilities usually at the state level of government. These

facilities most often provide a listing of the charges for which an individual was arrested. Details of the incident (offense) and the disposition or adjudication of the charges often is not provided. Although a centralized system is available in virtually all the districts surveyed, it was only as reliable as the local agencies' degree of participation. Generally, participation is at a high level in metropolitan areas and progressively diminishes as one goes to the more rural communities. Thus in predominantly rural districts participation is so inconsistent or minimal that a "no" response was the more accurate one. The centralized system in the best of cases is still only a starting point for a record search, and followup with the local agencies and jurisdictions is an absolute necessity.

The recording by agencies and courts of offenses into categories of felony, misdemeanor, and petty offenses, is not uniform and much of the survey responses were probably influenced by the officers' own independent knowledge of the state criminal code and the jurisdiction and practices of the local felony and misdemeanor courts.

Records are readily available in most felony cases and some serious misdemeanors but diminish with the age of the occurrence and/or seriousness of the charge. It should also be noted that "ancient" criminal offense information (that is, arrests occurring more than 15 years previously) is oftentimes difficult to obtain.

Recovery of information on juvenile offenses is also a problem and becomes more so as the offender grows older. Twenty-four of the 39 respondents responded that juvenile records are purged ranging from the time the defendant reaches his 18th birthday to an extreme of 20 years after the record is posted. Juvenile records will often be

purged by the time the defendant reaches his 25th or 26th birthday. In the responses to the purging practice and accessibility to records, it is not entirely clear if a distinction exists or was being made in juvenile records maintained by the local probation department and the official records of the juvenile court. In retrospect this question could have been better defined. In any event the survey suggests no reliable pattern except that the jurisdiction is centralized at the county level and requires more specific defendant information to begin a search. At least a few of the respondents offered the opinion, based on their view of current laws, practices, and trends, that in the future access to juvenile criminal records may be diminished.

The survey was unable to cover some western region districts having significant reservation caseloads. Of the 12 districts reporting Native American reservations within their boundaries, 8 have tribal courts. Six of these eight seldom have difficulty determining tribal records, while two reported they could sometimes recover these records. Two cautions are noted in regard to reliability and utility of tribal court information. Recordkeeping among tribal courts varies. Some tribal court records contain inadequate information. At least one respondent noted that tribal court adjudications are not always consistent with the practices found in the U. S. court system. For example, the record detailing an "adjudication" of a case involving an assault may not clearly cite a finding of guilt but may only report the accused is to compensate the victim monetarily. Disposition of serious crimes may thus be informal and even civil in nature. Tribal courts for the most part do not afford the opportunity for legal representation, yet most districts believe that inclusion of

this record is nonetheless critical in informing the court of the defendant's overall behavior.

Only eight respondents indicated a frequent need to obtain foreign offense history information and reported little difficulty in so doing. Most of these districts border Canada and have developed a good routine for record checks. A significant number of respondents noted they receive criminal record information from foreign countries after the presentence report. Much of this information involved countries other than Canada and came by way of Interpol.

Reliable, accurate, and timely prior record information results only from active and sometimes aggressive search by the probation officer. The most comprehensive results come from officers knowledgeable in the peculiarities of the local keepers of the record. Even then, ferreting out and making sense of the raw information can be time-consuming and, at times, the most trying task for the officer who perseveres in his assignment.

Mr. Chairman, this completes my formal presentation. I shall be pleased to respond to any questions the Commission may have.

A P P E N D I X A

APPENDIX A

PRIOR RECORD

Juvenile Adjudications

Essential Data:

Date, charge, location, disposition, and representation by counsel of all referrals to juvenile court by law enforcement officials.

Comment.--The probation officer should report all referrals to the juvenile court involving acts which would, if committed by an adult, constitute a crime. Status offenses, e.g., runaway, incorrigible, truant, beyond parental control, etc., are more properly described in the Personal and Family Data section.

Each entry, in chronological order, should include the date of referral, the name and location of the juvenile court, whether or not the juvenile was represented by counsel, the juvenile's age, the charge, and the disposition.

Example:

10/1/66	Shoplifting	Marion County	10/20/66:
Age 14		Juvenile Court	Informal Probation
		Salem, Oregon	Supervision (6 mos.)

Defendant was represented by counsel.

A subsequent paragraph may be appropriate to describe circumstances surrounding serious violations, the defendant's performance under supervision, or the defendant's institutional adjustment.

An offender's past is often highly relevant to the sentencing inquiry. Hence a court may consider an offender's juvenile history including any juvenile court dispositions. There are, however, several caveats to observe. **First, juvenile delinquency adjudications are not criminal convictions and should not be identified as such.** Second, even though state laws generally limit the use of juvenile records as evidence in any court proceedings, the weight of authority is that sentencing use is permissible. The presentence should also report, however, whether the juvenile record is a set-aside or sealed court record or whether such information is of a confidential nature. If a juvenile court disposition has been **destroyed**, then a probation officer should not refer to it in the presentence report.

Finally, **juvenile delinquency proceedings in which a juvenile was not afforded his right to counsel are invalid and may not be relied upon by the sentencing judge.** During the presentence investigation the officer should verify whether the juvenile had counsel or waived his right to counsel with respect to each juvenile disposition.

ADULT RECORD

Essential Data:

Date of arrest, charge, location, date and disposition of all arrests, and representation by counsel.

Include if Pertinent:

Detainers and details of charges lodged against defendant. Defendant's explanation of why he was involved in previous offenses. Codefendants in previous offenses. Details of arrests occurring subsequent to present offense. For serious offenses include a summary of the offense and prior probation, parole, or institution adjustments and dates.

Comment.--The identification record (fingerprint record) of the Federal Bureau of Investigation is a good source of information on the arrest record of a defendant. The FBI record is not always complete, and the probation officer should also make inquiry from state and local identification bureaus, police departments, and sheriffs' offices in those cities and communities in which the defendant has worked or resided. The defendant can also be a valuable source of knowledge and may provide information regarding missing dispositions or pending charges and whether or not he was represented by counsel.

The sixth amendment to the Constitution provides the right to counsel in all criminal cases, other than petty offenses where a fine is the only penalty. In 1972 the Supreme Court in U. S. v. Tucker (Appendix C) made it essential, for sentencing purposes, to determine whether or not the defendant was represented by counsel or had legally waived counsel in any prior convictions where the right to counsel applied. Only convictions in which the constitutional right to counsel was provided are valid. Invalid convictions may not be considered when determining the sentence. It must be stated in the report whether or not the defendant was represented by counsel. If it cannot be determined whether or not the defendant was legally represented, this circumstance must also be stated. (Generally, for offenses committed subsequent to the Tucker decision, the defendant should have been represented by counsel.)

Where the FBI fingerprint record does not give the disposition of a case, the probation officer should communicate with the law enforcement office which filed the print or the court in which the

case was tried to determine the outcome. Arrests without dispositions are not convictions and should be clearly identified.

Many times one offense will result in multiple entries on the fingerprint record. When this duplication occurs, make only one entry for each offense. If the defendant admits arrests which are not reflected in official arrest records, indicate they are by his or her admission.

If the defendant has an institutional record, ascertain the date of commitment and release, the institutional adjustment, and the present release status. When available, include information about prior probation or parole adjustment and dates of supervision.

All military courts-martial are reported in a Military subsection. Serious military offenses with a civilian counterpart may be cross referenced in the prior record section.

List all prior arrests in chronological order, including the date of arrest, age of the defendant, charge, arresting agency, court disposition, and the source(s) providing the information. If there are a number of sources, they may be included in the summary of the offense.

Example:

Age 27	4/6/69	Multnomah County	7/13/69:
	Burglary I	Portland, Oregon	3 years State Prison
		(Multnomah	released: 7/12/71;
		Sheriff's Office)	parole supervision
			expired: 7/6/72

Not determined whether represented by counsel.

According to the Sheriff's office report, sheriff's deputies were called by neighbors who had seen the subject break a back window and then enter the house next door. When the deputies arrived subject was apprehended while fleeing the premises with a camera, silverware, and jewelry.

According to his state parole officer, subject cooperated and satisfactorily completed his period of parole supervision.

For serious offenses summarize the circumstances of the offense. If the defendant has compiled a lengthy history of misdemeanor and/or traffic arrests, these may be summarized in a narrative form. Data should include the time period involved, the general type(s) of offenses, and the range of dispositions.

Example:

From 1968 to 1977, Mr. Jones was arrested five times for drunkenness and four times for minor traffic violations resulting in bail forfeitures or fines ranging up to \$50, and two jail terms of less than 10 days (both for drunkenness). He was represented by counsel for only three of the intoxication offenses.

Arrests subsequent to the present offense are to be recorded in the same manner as those set forth in the Adult section. They should be clearly labeled because they may reflect persistent problems. Further, the interest of other jurisdictions may have an impact on disposition of the present case.

A P P E N D I X B

APPENDIX B

Probation officers frequently experienced problems in gaining access to offenders' juvenile records

The Commission relies on the probation officer to furnish complete information in the presentence report on an offender's juvenile record because this information is used to calculate the individual's salient factor score. Thus, the absence or presence of this information in the presentence report can have a significant impact on the number of months an offender will serve in prison before release. In most judicial districts, probation officers are unable to obtain complete information on offenders' juvenile convictions because the records have either been destroyed or state and local authorities will not release the information. Without complete access to all juvenile records, the Commission cannot consistently calculate salient factor scores for all offenders.

When the Commission's hearing examiners calculate an offender's salient factor score, a juvenile record can adversely affect four of the seven categories. These categories include the number of prior convictions and commitments, age at behavior leading to first commitment, and probation or parole violation. Also, juvenile records can affect 8 of the 11 possible salient factor score points. If information on juvenile records were available, salient factor scores could change from very good to poor and result in the offender being placed in a more severe parole guideline range. For example, consider

a simple bank robbery case in which the offender had a serious juvenile record. If the information were not available, the parole guideline range would be 24 to 36 months. If it were, the proper parole guideline range would be 60 to 72 months.

In January 1981, we asked the Probation Division to contact all judicial districts to identify any problems experienced in obtaining access to juvenile records when preparing presentence reports. The results of this survey showed that 58 of the 90 judicial districts reported some problem in obtaining juvenile records. 1/ The two principal problems encountered by probation officers in gaining access to juvenile records are that records are destroyed after certain periods of time, or states and localities have placed prohibitions on releasing this information to anyone. The following examples illustrate some of the problems encountered by probation officers in obtaining access to juvenile records.

- The District of Connecticut reported that probation officers could not obtain access to any juvenile records on individuals who have reached their 21st birthday because all records are destroyed. In those cases where the defendant has pleaded guilty to a felony and is under 21, the probation officer may have access to juvenile records if the defendant signs a release form.
- The Middle District of Florida reported that its probation officers did not actively seek and use juvenile records because such records were supposed to be destroyed under Florida state law once an offender reaches 21 years of age. Also, this district reported that it was useless to make any inquiry concerning juvenile records because most defendants sentenced in this court were adults.

1/The Probation Division obtained responses from 90 of the 94 judicial districts.

--The Southern District of West Virginia reported that state law prevents anyone, including probation officers, from obtaining access to juvenile records. Also, this district reported that all juvenile records were destroyed after an individual reached the age of 18.

--The District of Wyoming reported that state law makes no provision or exceptions on the disclosure of juvenile records without the consent of the court. The chief probation officer also reported that several state judges interpret the law to mean that juvenile records cannot even be released to the Federal district courts or any law enforcement agencies.

The Commission's parole guidelines were established to promote consistency in parole release determinations. One essential ingredient for consistent parole release determinations is uniform access to the information necessary to formulate offenders' salient factor scores. When probation officers are unable to obtain access to juvenile records, the Commission will not have all the information it needs to properly and consistently implement parole guidelines. Thus, offenders with juvenile records may be treated inequitably depending upon whether probation officers can obtain access to this information and furnish it to the Parole Commission.

Our analysis of the 342 presentence reports included a determination of the impact that the absence of juvenile records might have on an offender's parole prognosis. We ignored all references to juvenile records and recomputed the salient factor scores to establish new parole prognosis ratings for the 342 cases. We found that in 97 cases, the parole prognosis improved by at least one category. For 104 cases, the elimination of juvenile records had no impact on the original parole prognosis. In the remaining 141 cases, there was no change in the parole prognosis because no juvenile records were reported in the presentence reports.

The following case illustrates the impact of the availability of juvenile records on an offender's parole release date.

--Ed had a serious juvenile record including five felony convictions and four incarcerations. Also, he violated parole as a juvenile. In October 1978, Ed was given a 10-year regular adult sentence in the Southern District of Ohio for armed bank robbery. The presentence report included information on Ed's juvenile record. Using the presentence report, the Commission's hearing examiners determined the offense severity as very high and his salient factor score as 1. The offense severity of very high and a salient factor score of 1 equates to a parole guidelines range of 60 to 72 months. In the event the probation officer had been unable to obtain access to the juvenile records, Ed's salient factor score would have increased to 8. The parole guidelines range for a very high offense and a salient factor score of 8 calls for 36 to 48 months. Thus, the absence of juvenile records could result in 2 to 3 years' difference in the amount of time served for the same offense.

Several chief probation officers told us that steps should be taken to make juvenile records available to probation officers preparing presentence reports for Federal district courts. One chief probation officer stated:

It would appear that many or most states have enacted very restrictive and overprotective laws on juvenile records which were intended for the protection of the juvenile who came into conflict with the law by immaturity and poor judgment, and deserves to have a "second chance" without that juvenile incident and record being held against him or her as a handicap in future life. I doubt that such legislative intent was to conceal and overprotect the juvenile who continues to violate the law and shows no sign of rehabilitation, but that has been one of the unexpected results of such laws. If the state laws would permit exception disclosures to other courts and agencies preparing presentence reports, such as Federal law under Title 18, Section 5038(1) and (2), a more evenhanded administration of justice could be administered for both the protection of the juvenile and society.

He also stated that he had recently testified on this matter before the state legislature in an attempt to get the state law revised.

APPENDIX C

TELEPHONE SURVEY QUESTIONNAIRE

District: _____ Officer: _____ Title: _____

1. Are adult records centralized? Yes 31 No 8
2. If yes, at what level? State 23 County 8
3. Do record searches require going to:
law enforcement agencies 36
juvenile courts 34
other courts 36
parole/probation offices 36
institutions 10
4. Do available records indicate if offense is felony or misdemeanor?
Usually 16 Sometimes 8 Rarely 15
5. Are reliable records available for misdemeanors and petty offenses?
Usually 17 Sometimes 21 Rarely 1
6. Are reliable records available for felony offenses?
Usually 38 Sometimes 1 Rarely 0
7. Are details of the offense available on misdemeanors?
Usually 17 Sometimes 14 Rarely 8
8. Are details of felony offenses available?
Usually 37 Sometimes 2 Rarely 0
9. Is representation of counsel or waiver of same available?
Usually 29 Sometimes 7 Rarely 3
10. Do records reflect offense of conviction as misdemeanor or felony?
Usually 23 Sometimes 9 Rarely 7
11. Is reliable information available as to probation violations/revocations?
Usually 27 Sometimes 11 Rarely 1
12. Are termination dates on probation terms available?
Usually 33 Sometimes 4 Rarely 2
13. Is reliable information available on method of release on incarcerated cases, i.e., parole, mandatory release, EGT?
Usually 34 Sometimes 3 Rarely 2
14. Is reliable information available on parole violations/revocations?
Usually 30 Sometimes 6 Rarely 3
15. Is information available on date of parole termination?
Usually 34 Sometimes 3 Rarely 2
16. Are juvenile records centralized? Yes 31 No 4

17. If yes, at what level? County - 26; State - 3; District (Circuit) - 2
18. Are reliable juvenile records available and accessible?
Usually 19 Sometimes 11 Rarely 5
19. Are juvenile records purged? Yes 24 No 9
Unknown 1
20. If yes, when? After 5 yrs. [1], 7 yrs. [1], 10 yrs. [2], 14 yrs. [1],
20 yrs. [1]. At age 18 [3], age 21 [7], age 26 [1].
Varies [3]. Unknown [4].
21. Does your district have Indian reservations? Yes 12 No 27
22. Do they have tribal courts? Yes 8 No 2
Unknown 2
23. Are records relating to tribal court convictions available?
Usually 6 Sometimes 2 Rarely 0
24. If so, what types: details of offense 7
conviction (judgments) 7
representation 5
other 0
25. What concerns do you have regarding use or lack of use of prior
record relating to offenses on the reservation?
1. None [3]
2. Not afforded opportunity for legal representation [4]
3. Records not completely reliable [2]
4. Tribal record is critically necessary despite inherent
problems [3]
26. Do you have regular need to check for foreign criminal record?
Yes 8 No 31
27. If so, what countries are usually involved?
Canada [4] Colombia [1]
INS [1] Nigeria [1]
Interpol [3] Central/South America [2]
28. Could you get accurate foreign records to meet dictation date?
Yes 4 No 2
29. What are the major difficulties in interpreting or utilizing foreign
records?
1. None [2]
2. Authenticating for evidentiary purposes [1]
3. Locating court of jurisdiction for disposition and
legal representation [4]
4. Not detailed enough [1]
5. Determining offense comparability [1]
6. Delay in receipt [1]