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JUVENILE RECORD USE IN ADULT COURT PROCEEDINGS: A SURVEY OF PROSECUTORS*

JOAN PETERSILIA**

I. JUVENILE RECORDS AS PREDICTORS OF ADULT CRIME

The transition from juvenile to adult court occurs during what are probably the peak years of criminality (ages 16 through 23). Arrest statistics show that the majority of persons arrested for serious crime are in this age category. Recently completed self-report studies confirm the fact that offenders in this age category engage in more frequent and more serious criminality.¹

Although young adults commit a disproportionate amount of serious crime, it appears that their chances of being arrested and convicted are lower than for an adult. One California study indicated that a juvenile is twice as likely to escape conviction for robbery than an adult, and two and a half times as likely to escape conviction for burglary than an adult.²

Research suggests that the probability that a crime will result in an arrest increases with age and criminal experience. Although older criminals may have gained experience and perhaps gotten more sophisticated in their crimes, their experience does not appear to help them evade arrest. Their experience is offset by the fact that as a criminal continues to commit crime, police become aware of his modus operandi, associates, and so on, and his arrest and conviction rates increase.

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¹ See J. PETERSILIA, P. GREENWOOD, & M. LAVIN, CRIMINAL CAREERS OF HABITUAL FELONS [hereinafter cited as PETERSILIA, GREENWOOD, & LAVIN] (1978); M. PETERSON, H. BRAIKER, & S. POLICH, DOING CRIME (1980).

² PETERSILIA, GREENWOOD & LAVIN, *supra* note 1.

Further, the legal constraints which govern the handling of a juvenile arrestee (*e.g.*, inability to fingerprint, photograph, or place in lineup) are not applicable to adult cases. As such, the police are better able to obtain the evidence needed to sustain an arrest charge.

Criminal justice policy-makers are confronted with a dilemma. Given the low probability of arrest for juveniles (about 12 percent of crimes committed), by the time an offender has accumulated several arrests and convictions, he is likely to be past his peak period of criminality.³ While imprisoning this older habitual offender provides retribution, his isolation from the community produces only a slight impact on the level of crime.

Thus it appears that many offenders are persistent wrongdoers and that the young adult years are the period when the rate of wrongdoing is highest. Significant reductions in the number of offenses committed might result from incapacitating substantial numbers of youthful offenders during their high crime years. The problem lies in deciding which youthful offenders to incarcerate.

What avenues are available for better identifying those youths who are committing a disproportionate amount of serious crime? Evidence points to a young adult's juvenile record as the most reliable indicator that he is engaging in a high rate of criminal activity at the time of an early adult arrest. Research on recidivism, career progression, and offense rates, shows conclusively that the best predictor of early adult criminality—in terms of probability of continuation, seriousness, and frequency of activity—is the official juvenile record.⁴

If juvenile records are the best means for identifying the most serious young adult arrestees, then such records should be made available to practitioners for use in decision-making. Unfortunately, complete juvenile histories are often unavailable. Police, prosecutors, and judges frequently complain that they are unable to obtain prior juvenile histories on young adult defendants. When records are available, they may be difficult to obtain, incomplete, and inaccurate.

The availability of juvenile records is a sensitive issue because the United States juvenile justice system has an historic concern for juveniles' privacy. The underlying tenet is that a juvenile should not be stigmatized by his involvement with the juvenile justice system, whether this involvement derives from his status or his delinquent behavior. As

³ See note 1 *supra*.

⁴ L. SHANNON, *ASSESSING THE RELATIONSHIP OF ADULT CRIMINAL CAREERS TO JUVENILE CAREERS* (1981); Wolfgang, *From Boy to Man—From Delinquency to Crime* (1977) (paper prepared for National Symposium on the Serious Juvenile Offender, University of Pennsylvania).

stated in *In Re Holmes*,⁵ the purpose of the juvenile proceeding is "not penal but protective, aimed to check juvenile delinquency and to throw around a child just starting, perhaps, on an evil course No suggestion or taint of criminality attaches to any finding of delinquency by a Juvenile Court."⁶ Concern that an individual not be stigmatized by a juvenile record has resulted in numerous laws and procedures to assure that juvenile transgressions do not follow youths into adulthood. This gap in information-sharing between the juvenile and the adult justice systems marks what is termed the two-track system of justice.⁷ Unquestionably, protecting young adults from the ramifications of a non-serious delinquent record is appropriate. The real issue is whether the records of serious crimes committed by juveniles should be treated similarly.

This topic has been the subject of rising controversy, especially as the crimes committed by youths become more serious. The debate generally involves two factions: the defenders of the juvenile court and the actors in the adult system. Defenders of the juvenile court generally advocate non-disclosure of juvenile records (1) as a way of preventing the criminogenic effects of prematurely labeling individuals as criminals, and (2) to protect young adults from adverse repercussions of their youthful transgressions. On the other hand, prosecutors, probation officers, and judges in the adult court, who are responsible for distinguishing between the less serious and more serious defendants who come before them, are naturally curious about the juvenile record. Both common sense and prior research tell these officials that the juvenile record is the best available predictor of young adult criminality. Given the pressures placed on these officials to protect the community, it would be surprising if there were not a variety of channels, both formal and informal, for passing juvenile record information to the criminal court to serve what it sees as a legitimate need.

Up to this time, the debate about the proper degree of juvenile record information sharing, and the merits of proposed reforms has been data free.⁸ Actual information-sharing practices were only described by

⁵ 379 Pa. 599, 109 A.2d 523 (1954).

⁶ *Id.* at 603-04, 109 A.2d at 525.

⁷ See Boland & Wilson, *Age, Crime, and Punishment*, PUB. INTEREST, Spring 1978, at 22.

⁸ Related literature was reviewed and helped guide the design of the survey. However, this literature refers primarily to the philosophy surrounding juvenile record protection, sealing, and expungement, and the use (and misuse) of those records within the juvenile court. There have apparently been no previous attempts to directly address the issue of information-sharing between the juvenile and adult courts. For these related issues, see e.g., Lemert, *Records in Juvenile Court*, in ON RECORD: FILES AND DOSSIERS IN AMERICAN LIFE (S. Wheeler ed. 1969); Baum, *Wiping Out a Criminal or Juvenile Record*, 40 J. STATE BAR OF CAL., 816 (1965); Coffee, *Privacy Versus Parens Patriae: The Role of Police Records in the Sentencing and Surveillance of Juveniles*, 57 CORNELL L. REV., 571 (1972); Kogon & Loughery, *Sealing and Expungement of Criminal Records—The Big Lie*, 61 J. CRIM. L.C. & P.S. 378 (1970); Piersma, Ganousis, &

anecdotal reference. It would seem that before any reforms can be seriously contemplated, it is necessary to examine current practice, and to examine how the present safeguards affect policy.

As an initial probe into this uncharted area, the author surveyed the largest prosecutors' offices in each state.⁹ For a variety of reasons, the prosecutor was selected as the best target for this initial inquiry. First, his office has more contacts with the criminal justice system than any other agency. The prosecutor deals directly with the police, probation, court, corrections, and state criminal history systems. Second, the prosecutor makes more policy decisions based on what he thinks is an appropriately desired sanction than any other actor in the system. Decisions involving bail, charging, plea negotiation, and sentence recommendation are often in the hands of the prosecutor. Conceivably, these decisions could be affected by the presence of a juvenile record.

Despite these advantages, there is a disadvantage in surveying prosecutors. The prosecutor in an adversary system is not a disinterested party. Very few prosecutors would complain about having too much information; on the contrary, their natural bias is toward maximum information-sharing. Thus the prosecutor's perception of the extent and quality of information shared between the two systems must be viewed with an awareness of that bias.

Statutes regulating disclosure of juvenile records are generally concerned with public disclosure rather than sharing of information inside the system. Nearly all states have enacted statutory requirements for confidentiality of juvenile records, and more than half explicitly include police juvenile records as information to be kept confidential. Yet these statutes almost without exception are aimed at preventing *public* disclosure only. All contain specific and most contain open-ended exceptions permitting access to juvenile court and, where considered, police juvenile records.¹⁰ There is an almost universal practice among law enforcement agencies to exchange arrest information, including juvenile arrest records. This practice has been formalized by statute in some jurisdic-

Kramer, *The Juvenile Court: Current Problems, Legislative Proposals, and a Model Act*, 20 ST. LOUIS U.L.J., 1 (1975); Note, *Juvenile Police Record-Keeping*, 4 COLUM. HUMAN RIGHTS L. REV., 461 (1972).

⁹ The project's limited resources were directed toward the largest offices in each state because presumably prosecutors in those jurisdictions would have had the greatest experience in dealing with youthful offenders. The range of caseloads represented by the selected offices varied considerably.

¹⁰ The frequency distribution of jurisdictions (50 states plus the District of Columbia) with respect to confidentiality is as follows:

tions and by professional standards.¹¹

Although most states have laws that permit the sharing of information in particular instances, the practicality of the matter appears to be the critical issue. Since the juvenile and adult court systems are totally separate institutions—with separate personnel, policies, and record-keeping systems—information-sharing is not a routine matter.

II. SURVEY OBJECTIVE AND METHOD

The definition of “juvenile records” adopted for the survey is narrower than its scope in common usage. Juvenile records are an exceedingly broad entity, encompassing legal, social, psychological, and other items. The concern in this study was with crime-related information only—mainly records of arrest, adjudication, and disposition for non-minor offenses. These records may be created and/or held within a variety of agencies, including law enforcement, the probation department, the court, and the local state or federal bureaus of criminal history information. The interest here is not whether the juvenile acquires a criminal record as a result of an arrest, or to what agencies that information is distributed. It is, instead, the extent to which that record survives past the maximum age of juvenile court jurisdiction and is used in adult criminal proceedings.

This survey sought to answer the following questions:

- What type of juvenile history information does the prosecutor usually have in deciding case dispositions for young adult felony defendants? What is his source for the information?

| | NUMBER OF JURISDICTIONS (percent) |
|----------------------------------|---|
| Court records and police records | 55% |
| Court records only | 35 |
| Neither | <u>10</u> |
| | 100% |
| | N=51 |

The jurisdictions are specifically as follows: Court records and police records—Alabama, Alaska, California, Colorado, District of Columbia, Georgia, Hawaii, Illinois, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Jersey, New York, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Wisconsin, Wyoming. Court records only—Arkansas, Connecticut, Delaware, Florida, Indiana, Louisiana, Maine, Michigan, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, Oregon, Rhode Island, Utah, Washington. Neither—Arizona, Idaho, Iowa, Mississippi, West Virginia. Derived from J. AUSTIN, R. LEVI, & P. COOK, *A SUMMARY OF STATE LEGAL CODES GOVERNING JUVENILE DELINQUENCY PROCEEDINGS* (1977) [hereinafter cited as J. AUSTIN, R. LEVI & P. COOK].

¹¹ MODEL COURT SYSTEMS AND TECHNOLOGY COMMITTEE, NAT'L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, *PRINCIPLES FOR THE CREATION, DISSEMINATION AND DISPOSITION OF MANUAL AND COMPUTERIZED JUVENILE COURT RECORDS* (1978).

- At what point in the proceedings does the prosecutor become aware of the defendant's juvenile record?
- Does the prosecutor judge the information in the juvenile record accurate and complete?
- What impact do juvenile records have on prosecutorial decisionmaking?
- What factors (*e.g.*, size of jurisdiction) are related to variations in the extent, quality, and use of juvenile records in adult dispositions?

To answer the above questions a questionnaire was sent in October 1979 to a national sample of prosecutors. The return rate was 66 percent, resulting in an overall sample size of 71.¹² The questionnaire dealt with the prior record information the prosecutor usually had when processing the case of a young adult defendant, the prosecutor's opinion as to the quality of the information, the effect that such information had on his or her decisions, and other related matters. Factual information about the jurisdiction (*e.g.*, size, age of majority, felony caseload) was also obtained.

The respondents were told the survey asked about the access their office had to criminal history information concerning *young adult felony defendants*, defined as "those defendants who are only two or three years past the maximum age of juvenile court jurisdiction. In most jurisdictions, this will mean 18-21 year-old defendants, but in others it may mean 16-19 or 17-20 year-old defendants." The purpose of focusing attention on young felony defendants just past the age of majority was to understand the extent of information shared between the juvenile and adult courts in cases where presumably the information is particularly pertinent.

To supplement the questionnaire information, a review of legal statutes governing the confidentiality of records, the fingerprinting and photographing of juveniles, and related items was conducted.¹³ This additional information was combined with the questionnaire data in the analysis.

¹² The sampling procedure was as follows: For the ten largest states, the prosecutors in the three largest counties were included. For the remaining states, the prosecutors in the two largest counties were included. The questionnaire was mailed to these persons with a letter explaining the purposes of the study. The return rate for the ten largest states was 21/30 (70 percent); for the remaining states, 50/70 (64 percent); or an overall return rate of 71/108 (66 percent). Only four states remain unrepresented—Delaware, Mississippi, Tennessee, and Alabama. The questionnaire contained approximately thirty questions, many of them multi-part and open-ended. It was estimated that the survey required approximately one hour to complete.

¹³ The majority of the statute information was drawn from J. AUSTIN, R. LEVI, & P. COOK, *supra* note 10; S. DAVIS, *RIGHTS OF JUVENILES: THE JUVENILE JUSTICE SYSTEM, & 1978 SUPP.*, App. B (1974). Marvin Lavin, an attorney at the Rand Corporation, updated the information.

III. THE EXTENT AND TYPE OF JUVENILE RECORD INFORMATION SHARED

A. POLICE-PROVIDED JUVENILE RECORDS

The prosecutor has a number of potential sources from which to obtain a defendant's juvenile history. The police may make a record of juvenile contacts, even though no formal arrest occurred. If an arrest occurs, a police arrest record will probably be created. If the juvenile is referred to probation for a petition request, another set of more comprehensive records is created. If the case is adjudicated in court, still another set of records containing subsequent court actions will be created.

Conceivably, the prosecutor could contact each of these departments and request criminal record information on defendants brought before him. However, for the most part, the prosecutor relies on the information supplied by the police investigator at the time of filing. Prosecutors do not normally have sufficient investigative resources to supplement the police-provided information except in unusual situations. Since juvenile histories may be difficult to locate or incomplete, (*e.g.*, arrests with no dispositions) police may not routinely provide

TABLE 1

EXTENT AND TYPE OF JUVENILE HISTORY INFORMATION
PROVIDED BY POLICE
(N = 71)

| How Often Do The Police Provide Juvenile Histories? (percent) | | What Type of Information Is Provided? (percent) | |
|--|------|--|------|
| Always | 6% | Local Information Only | 80% |
| Usually | 13 | <i>Arrests Only</i> | 10% |
| Sometimes | 21 | <i>Dispositions Only</i> | 15 |
| Rarely | 35 | <i>Arrests and Dispositions</i> | 75 |
| Never | 25 | | |
| | 100% | | 100% |
| | | Local and Statewide Information | 15 |
| | | <i>Arrests Only</i> | 0% |
| | | <i>Dispositions Only</i> | 12 |
| | | <i>Arrests and Dispositions</i> | 88 |
| | | | 100% |
| | | No set pattern; whatever is available or known | 5 |
| | | | 100% |

them, either. This led one panel of experts to conclude "in most jurisdictions, at the critical early stages of adult prosecution, records of adjudication in the juvenile court are often not available."¹⁴ The validity of this assumption is examined below.

In our survey each prosecutor was asked: "When you are handling the case of a young adult (two to three years past maximum age of juvenile court jurisdiction) how often do the *police*, as part of their investigation report, provide your office with information concerning the defendant's juvenile criminal history? What type of information is usually contained in these reports (*e.g.*, local arrests, statewide dispositions)?" Table 1 contains their responses.

Sixty percent of the respondents said the police "never" or "rarely" provided them with juvenile histories on young adult defendants. Further, when police do provide juvenile histories, those histories refer to local rather than statewide activities.

It is conceivable that those prosecutors who report receiving little information concerning the defendants' *juvenile* history also report receiving little information from the police concerning adult criminal histories. To determine whether this was the case, each prosecutor was also asked about police-provided *adult* criminal histories. The comparison in Table 2 shows that in 74 percent of the jurisdictions adult criminal histories are "usually" or "always" provided, as compared to 19 percent for juvenile histories. Additional analysis showed that 50 percent of the jurisdictions reported that the police-provided adult histories include statewide arrests and dispositions.

The responses in Table 2 are informative in that they reflect the extent to which the sharing of juvenile records has become routine practice. Routine practice appears to be true in, at most, 19 percent of the jurisdictions.

When asked what factors influence whether the police provide the prosecutor with juvenile records in jurisdictions where such sharing is not routine, approximately half of the prosecutors said juvenile records would be included in the police report if the current offense was particularly serious. The other half reported that juvenile records were provided when the investigating officer had personal knowledge of the defendant's history.

The most common instrument for sharing juvenile histories is the "rap" sheet, a report listing all police contacts and arrests. Fifty percent

¹⁴ F. ZIMRING, *Background Paper*, in CONFRONTING YOUTH CRIME: REPORT OF THE TWENTIETH CENTURY FUND TASK FORCE ON SENTENCING POLICY TOWARD YOUNG OFFENDERS 27 (1978).

TABLE 2
 EXTENT OF JUVENILE AND ADULT CRIMINAL HISTORIES
 PROVIDED BY POLICE
 (N = 71)

| Extent | Police Provide Juvenile Records (percent) | Police Provide Adult Records (percent) |
|-----------|---|---|
| Always | 6% | 44% |
| Usually | 13 | 30 |
| Sometimes | 21 | 15 |
| Rarely | 35 | 7 |
| Never | 25 | 4 |

of the prosecutors said the information they received was in the form of a rap sheet. Rap sheets have been sharply criticized because they often record mere inquisitional suspicion, along with provable law violations. One of the reforms sought during the past decade would require a statement of the disposition of the case on the rap sheet. The majority of prosecutors who said they received juvenile rap sheets from the police indicated that local arrests *and* dispositions were usually present. Surprisingly, the other half of the responding prosecutors said juvenile histories were provided more informally: 10 percent said the police communicated with them orally, 30 percent said information was contained in investigation notes, and 10 percent said the report would include copies of index cards, and other miscellaneous materials.

B. PROSECUTOR-INITIATED JUVENILE RECORDS

The prosecutor is not totally dependent on the police for defendant-related information. The prosecutor may have his own investigative personnel or may have several police investigators for use in follow-up investigations. In some rare instances, the prosecutor may conduct limited investigations. The prosecutor may even judge juvenile records to be so important that he will direct resources to locate them.

To determine how frequently this upgrading of police-provided information occurred, each respondent was asked: "How often does your office attempt to locate its own information about the juvenile criminal histories of young defendants? What type of information are you usually able to locate?" Table 3 contains the responses.

TABLE 3
EXTENT AND TYPE OF JUVENILE HISTORY INFORMATION
LOCATED BY PROSECUTOR
 (N = 71)

| How Often Do You Attempt to Locate Juvenile Histories? (percent) | What Type of Information Are You Usually Able to Locate? (percent) |
|--|--|
| Always 11% | Local Information 70% |
| Usually 15 | Only |
| Sometimes 17 | <i>Arrests Only</i> 30% |
| Rarely 41 | <i>Dispositions Only</i> 3 |
| Never 15 | <i>Arrests and</i> 67 |
| | <i>Dispositions</i> _____ |
| | 100% |
| | Local and Statewide 17 |
| | Information |
| | <i>Arrests Only</i> 22% |
| | <i>Dispositions Only</i> 11 |
| | <i>Arrests and</i> 67 |
| | <i>Dispositions</i> _____ |
| | 100% |
| | No set pattern; 13 |
| | whatever is |
| | available or known _____ |
| | 100% |

The data indicate that prosecutors do not routinely attempt to locate juvenile histories. Seventy-five percent of the prosecutors said serious administrative problems and resource constraints limited their ability to search for juvenile records except in unusual circumstances. The problems cited most often were "insufficient manpower for record search" (32 percent); "locating the records" (30 percent); and "cooperation from other agencies" (38 percent).

When prosecutors did search for juvenile records they usually questioned the police (66 percent), looked at previous probation reports (41 percent), or searched their own records (50 percent). Only eight percent of the prosecutors said they consulted a statewide information system. Prosecutors were also asked which source contained the most accurate and complete juvenile record information. The probation department records were ranked the highest (26 percent); the prosecutor's own juvenile register next (15 percent); then, police department files (12 percent); and finally statewide information systems (5 percent). Eighteen percent of the respondents wrote in some "other" local file as the most accurate and complete.

Each prosecutor was also asked whether he sought his own information on adult criminal histories. Seventy-five percent of the respondents said they nearly always search out adult histories, and very rarely attempt to locate a defendant's juvenile history, even if he or she is only 18

or 21 years old. One explanation for this difference in prosecutor behavior lies in the fact that locating juvenile records appears to be a low prosecutorial priority. Another reason is the nature of the records being sought. Since most states do not maintain statewide juvenile criminal histories, local police records are the only source of summary information. Once the prosecutor has obtained the local police record, the only reason to search further is to find out the specific facts or disposition of an offense. Adults are more likely to be transient or to have served state or federal prison terms. Because most states maintain a statewide system for adult criminal histories, there is reason to make inquiries of them. Moreover, state penal codes often make special provisions for the enhancement of sentences based on prior adult convictions or prison terms. In order for the prosecutor to prove these special allegations, he must obtain more specific information than that contained in the local police records.

The responses on the extent to which the police provided juvenile histories were cross-tabulated with data concerning the extent to which the prosecutor sought his own information. The expectation that an inverse relationship between police provision of scant juvenile record information and the prosecutor seeking out his own information was faulty. In fact, the two measures were positively related ($\chi^2 < .05$): the more juvenile history information the police provided, the more information the prosecutor sought. On the other hand, when the police provided little information, the prosecutor sought little. This finding may suggest that the information is unavailable, legally restricted, or so poorly organized that it is not easily accessible by either the police or the prosecutor. The data may also indicate that such information, for whatever reason, is not deemed particularly important and therefore neither agency attempts to locate it.

By combining the information the prosecutor said the police provided with that obtained from all other sources, each jurisdiction was classified as to the overall amount of criminal history information usually available in cases involving young adult defendants. This measure of the overall extent of criminal record information becomes a primary dependent variable in later analysis. The percentage of responding jurisdictions falling into each category is given in Table 4.

The data presented above deal with the amount of criminal history information used by the adult court, as well as the sources for that information. The results provide evidence of an information gap with respect to juvenile records in adult courts. Forty-one percent of the responding prosecutors indicated they never or rarely had knowledge of the juvenile histories of young adult felons they prosecuted. It should be

TABLE 4
OVERALL EXTENT OF CRIMINAL HISTORY INFORMATION
AVAILABLE TO THE PROSECUTOR
 (N = 71)

| Extent of Information | Percent of Responding Jurisdictions in Each Category | |
|--|--|---------------------------------------|
| | Pertaining to Juvenile History (percent) | Pertaining to Adult History (percent) |
| <i>No information</i> (The police never bring criminal histories and prosecutor never obtains them) | 14% | 0% |
| <i>Slight information</i> (In "rare" instances the police or prosecutor gets local and/or statewide information. "Rarely" defined as less than 30 percent of cases) | 27 | 4 |
| <i>Some information</i> (The police or prosecutor "sometimes" gets local and/or statewide information. "Sometimes" defined as 31-69 percent of cases) | 22 | 24 |
| <i>Moderate information</i> (The police or prosecutor "usually" gets state and/or local information. "Usually" defined as 70-99 percent of cases) | 34 | 42 |
| <i>Significant information</i> (The police or prosecutor "always" gets state and/or local information) | 1 | 11 |
| <i>Complete information</i> (The police and prosecutor both get state and local information) | 1 | 18 |

emphasized that the survey did not refer to the juvenile records of all adult felons *combined* but to the juvenile records of those defendants *just past the maximum age of juvenile court jurisdiction*. On the contrary, the prosecutor would nearly always have knowledge of the adult criminal record. In some jurisdictions neither the police nor the prosecutor has the time, resources, or perhaps inclination to locate juvenile criminal histories.¹⁵

¹⁵ A least-squares linear multivariate regression model was used to analyze the effect of fifteen selected independent variables upon the primary dependent variables—the extent of juvenile criminal history information shared with the prosecutor. As a result of this procedure, all fifteen independent variables produced R² of .548 upon the dependent variables with an F-value of 2.2 at .05 probability level of significance. This analytic technique was

IV. ASSESSING THE QUALITY OF JUVENILE RECORDS

Juvenile records have been criticized on several grounds: they are inadequate, unclear, incomplete, and difficult to access.¹⁶ Even when juvenile records are accessible, they are often brought forth so late in the criminal proceedings that they are of little use. Two factors contribute to poor juvenile records: the nature of the juvenile proceedings themselves, and the failure of criminal justice agencies to explicitly plan for the use of these records in adult proceedings.

The reason for the first factor is that delinquency proceedings differ from adult criminal proceedings because the specific criminal acts of the juvenile are not the central issue. Technically the juvenile court is not concerned with whether the juvenile committed a robbery, burglary, or assault. The available sanctions or treatments are not contingent on the specific type of behavior. The juvenile court must merely find the juvenile "delinquent." A finding that an individual is "delinquent" is much more ambiguous than a court's conviction of an adult. Hence juvenile records, even when they contain dispositions, are inherently more ambiguous than adult records.

A second reason for the poor quality of juvenile records is that most jurisdictions do not explicitly provide for their use in adult proceedings. Juvenile court's historic role as a child welfare agency left it unclear whether it was a court of record. Because there is no consistent policy on juvenile record-keeping, each local agency is left to formulate its own policies regarding the creation and dissemination of such materials. Agencies experiencing a serious deficiency of resources cannot be expected to spend those resources on developing record-keeping systems. Even when records exist, they are inaccessible to adult court personnel due to inadequate staffing, poor physical layout, and their often remote location.

To provide a measure of the prosecutors' satisfaction with juvenile record systems, they were asked to compare the juvenile and adult systems concerning accessibility, timeliness, completeness, and clarity. This comparison also provided a determination of whether the quality was a reflection of the poor quality of records in general in the jurisdiction, or was unique with respect to juvenile records. Their responses are tabulated in Table 5.

The responses indicate that the majority of prosecutors find their adult record system to be better than their juvenile system on each of

used primarily as a means of exploring relationships in the data base. The nature of the data was such that it was deemed more appropriate to use cross-tabulations as opposed to this more sophisticated technique.

¹⁶ Note, *Juvenile Record-Keeping*, *supra* note 8.

the measures. The adult record system was found to be better than the juvenile record system particularly in areas of accessibility and the completeness of statewide arrest information.

TABLE 5
COMPARISON OF THE QUALITY OF JUVENILE
AND ADULT RECORDS
(N = 69)

| Quality Item | Percent of Respondents Rating Records as | | | | | Total |
|--|--|-------------------------------------|-----------------------------|------------------------------------|--------------------------------|-------|
| | Adult Much Better than Juvenile | Adult Somewhat Better than Juvenile | Adult and Juvenile the Same | Adult Somewhat Worse than Juvenile | Adult Much Worse than Juvenile | |
| Ease of access | 74% | 15 | 10 | 2 | — | 101 |
| Timeliness with which you receive it | 57% | 28 | 13 | — | 2 | 100 |
| Completeness of local arrest information | 53% | 24 | 21 | 3 | — | 101 |
| Completeness of statewide arrest information | 66% | 18 | 13 | 2 | 2 | 101 |
| Clarity of local final disposition information | 47% | 26 | 25 | 2 | — | 100 |
| Clarity of statewide final disposition information | 52% | 29 | 15 | 3 | 2 | 101 |

The poor rating which prosecutors gave adult records was surprising, because the management and computerization of adult records created an expectation that their ratings would be much higher than those for juvenile records. Adult records do not fare well. For example, only 47 percent of the respondents said the clarity of adult local dispositions was "much better" than local dispositions on juvenile records. The responses showed that the quality of records varied as much between jurisdictions as it did between juvenile and adult records (except in terms of accessibility, where juvenile records were judged less accessible across jurisdictions).

The respondents were also asked to rate the absolute quality of their juvenile records along the same characteristics. Responses show that one-half to three-fourths of prosecutors judge the juvenile records

they receive to be fair to poor in most respects.¹⁷ More than 60 percent of those who receive statewide information judged it to be poor in terms of completeness and clarity. Local information received higher ratings, although about half of the respondents felt their local arrest information was incomplete and the dispositions unclear. Thus, not only do few prosecutors receive statewide information, but even if such information is received, the prosecutor feels that it is incomplete and unclear.

Not all jurisdictions rated juvenile records poorly. Six jurisdictions rated their juvenile records as "excellent" in all respects, and twelve jurisdictions rated their records as either good or excellent in each aspect. These jurisdictions were more likely than others to have:

- Rather complete information from the police prior to the preliminary hearing.
- No legal restrictions governing the fingerprinting and photographing of juveniles.
- Few legal restrictions governing maintenance and access of juvenile records.
- A formal Career Criminal Prosecution Program in operation.
- Pre-sentence investigation reports which include complete juvenile record information (arrests and dispositions).
- Juvenile records stored in a central place, making them easy to retrieve.

V. THE POINT IN THE PROCEEDINGS WHEN JUVENILE RECORDS BECOME KNOWN

If a defendant's criminal history is not known early in the proceedings it cannot affect early prosecutorial decision-making such as whether to file criminal charges, which charges to file, whether to go to trial, what the disposition should be if the case does not go to trial, etc. Some contend that these decisions should be based on complete knowledge of the defendant's prior record, both juvenile and adult.¹⁸

Each prosecutor was asked whether he was likely to have the defendant's juvenile and adult criminal record at different stages of the proceedings. Again, this information was requested for cases specifically involving persons just past the maximum age of legal majority. Table 6, which shows the percentage of respondents who said they would not have prior record information at that particular point in the proceeding, is informative in several respects. Of most importance, it shows that juvenile record information often is brought forth quite late in criminal

¹⁷ Only respondents who receive some juvenile record information were instructed to rate its quality.

¹⁸ See, e.g., M. Moore, J.Q. Wilson, & R. Gants, *Violent Attacks and Chronic Offenders: A Proposal for Concentrating the Resources of New York's Criminal Justice System on the 'Hard-Core' Crime Problem* (1980) (unpublished report made available to the New York State Assembly).

proceedings. Seventy-eight percent of the prosecutors report not having a defendant's juvenile record at the time charges are filed, and 72 percent still do not have such information by the time of the preliminary hearing. Almost half of the respondents do not have information on a defendant's juvenile record at the time of pretrial negotiations, and a full 23 percent move through sentencing without such information.

TABLE 6
 KNOWLEDGE OF CRIMINAL RECORD BY
 POINT IN PROCEEDING
 (N = 71)

| Point in Proceedings | Percent of Respondents Who Would <i>Not</i> Have Knowledge of | |
|------------------------|---|----------------------------------|
| | Juvenile Criminal History (percent) | Adult Criminal History (percent) |
| At bail hearings | 96% | 80% |
| When filing charges | 78 | 55 |
| At preliminary hearing | 72 | 44 |
| Pretrial negotiations | 45 | 16 |
| Sentencing | 23 | 0 |

Information on the defendant's adult criminal history is more timely, although half of the prosecutors have no information concerning the adult record until after they have made the decision whether to file charges.

VI. THE PERCEIVED EFFECT OF JUVENILE RECORDS ON ADULT PROSECUTION

The impact which a juvenile record has on adult prosecution is not well known. The survey included questions asking prosecutors about their opinions of the impact of a juvenile prior record, as opposed to an adult one, on case disposition.

Each prosecutor was told to "consider the hypothetical case of a 19-year-old male arrested for a daytime residential burglary. In one instance, this is the arrestee's first adult arrest, but his juvenile record reveals two prior adjudications for burglary. In the second instance, the arrestee's record reveals a prior adult burglary conviction (no information on his juvenile record)." The prosecutor was then asked: "What impact would the presence of the juvenile record have on disposition decisions in your jurisdictions? What impact would the presence of the adult record have on disposition decisions in your jurisdictions?" The

percentage of respondents who said the presence of a prior record would have a significant effect (as opposed to no or slight effect) is shown in Table 7.

TABLE 7
EFFECT OF PRIOR RECORD ON PROSECUTORIAL
DECISION-MAKING
(N = 71)

| Prosecutor Decisions | PERCENT OF RESPONDENTS REPLYING PRIOR RECORD WOULD HAVE "SIGNIFICANT EFFECT" | |
|--|---|---------------------------|
| | Juvenile Record (percent) | Adult Record (percent) |
| Chances of diversion | 71% | 87% |
| Chances of dismissal | 62 | 75 |
| Level of bail | 37 | 53 |
| Chances for release on his own recognizance | 31 | 55 |
| Chances for concessions in plea bargaining | 63 | 86 |
| Final sentence severity | 53 | 87 |

Each decision by the prosecutor is affected by the presence of an adult record more than a juvenile record. The decisions least affected by a prior record, whether juvenile or adult, have to do with pre-filing decisions, such as the level of bail or whether to release the defendant on his own recognizance. Table 7 indicates that only 53 percent of the prosecutors say that knowledge of a defendant's juvenile history would be used in determining final sentence severity, whereas 87 percent say a prior adult record will affect sentence severity. These data seem to support the notion that defendants start over on the "ladder of dispositions"—not only because the adult court does not know their records, but because, even when they are known, there is a tradition of not weighting such records similarly.

These survey results are probably surprising to both proponents and opponents of prosecutorial reliance upon juvenile records. As might be expected, juvenile records affect the prosecutor's decision to a lesser extent than do adult records. However, those who believe that juvenile adjudications are not criminal might be disturbed by the high percentage of prosecutors (60-70 percent) who say that juvenile records would affect decisions such as dismissal or plea bargaining. Those who contend that the juvenile records should be used, but suspected they were not, may be somewhat satisfied. On the other hand, those who agree

with the prosecutors who fault other parts of the criminal justice system for failing to act in a manner consistent with the objectives of crime control may be surprised that so many prosecutors discount juvenile records in making their decisions.

VII. THE CHARACTERISTICS OF INFORMATION-SHARING JURISDICTIONS

The survey revealed great variation among jurisdictions in the extent and quality of juvenile information shared, as well as the degree to which the prosecutor says such information affects decision-making. This section examines the factors which cause these variations from jurisdiction to jurisdiction in information-sharing. Such factors include the legal age of maximum court jurisdiction, the extent of statutory restrictions, the size of the jurisdiction, and the extent of administrative problems. The analysis also focuses on the association between the amount of information, its quality, and use. This analysis is exploratory, given the small sample size and the nature of the data.

A. THE IMPACT OF LEGAL RESTRICTIONS ON INFORMATION-SHARING

The manner in which juvenile records are created, maintained, and disseminated is governed by well-established law. Although statutes pertaining to juvenile records are not intended to limit prosecutorial access to juvenile records, specific statutes might have indirect impacts on information-sharing between the juvenile and adult courts. The discussion below analyzes the relationship between juvenile record information-sharing and (1) confidentiality statutes, (2) expungement statutes, and (3) statutes limiting the fingerprinting and photographing of juveniles.¹⁹

As previously mentioned, juvenile court records are "confidential" by statute in nearly every state, and the statutory provisions for privacy include police juvenile records in more than one-half of the states.²⁰ While probation department juvenile records are usually not mentioned explicitly in such statutes, one would expect them to be handled with restrictions similar to court records; in fact, many of the documents produced by probation departments in juvenile cases are incorporated in the juvenile court records. It is not apparent how these restrictions might affect prosecutorial access to such information; however, these re-

¹⁹ The statutory information was drawn from two published reviews of legal codes governing juvenile delinquency proceedings: AUSTIN, LEVY & COOK, *supra* note 10; M. LEVIN & R. SARRI, JUVENILE DELINQUENCY: A STUDY OF JUVENILE CODES IN THE UNITED STATES (1974).

²⁰ See note 10 *supra*.

strictions may inhibit systematic record-keeping or encourage the maintenance of lower quality records.

Sealing juvenile records means the removal, for the benefit of the subject, of juvenile record information from routinely available status to a status requiring special procedures for access. Some jurisdictions use "expunge" as a synonym, but expungement actually means the total removal of information in a given system. Only eighteen states²¹ lack statutory provisions for sealing or expungement of juvenile court records.²² In two states (Alaska and Montana) sealing of juvenile records is mandatory when the juvenile reaches 18 years (or leaves the juvenile court's jurisdiction if it extends beyond the eighteenth birthday). Sealing or expungement is discretionary in the remaining states. Whether sealing or expungement requires the juvenile's petition, the court's motion alone, or both, varies from state to state. In most discretionary states, there is a waiting period during which the juvenile's record must be free of known offenses before it is eligible for sealing or purging. This period, typically two years or more, may be measured relative to a specified age, to the date of the most recent adjudication, to the date when court jurisdiction terminated, or otherwise.²³

The photographing and fingerprinting of juveniles have been matters of continuing controversy, for they have been regarded as strongly stigmatizing for the juvenile. At the same²⁴ time, the need for positive identifications in both juvenile and criminal justice is unquestionably vital. Statutory regulation of juvenile fingerprinting and photography is uneven, with 49 percent of the sampled jurisdictions having no statutory restrictions on the fingerprinting and photographing of juveniles.²⁵ Only a few states limit the fingerprinting of juveniles and provide for the expungement of the fingerprint records.

In addition to the statutory information, the survey asked prosecutors: "Are there any legal restrictions on your access to the juvenile records of young adult felony defendants prior to their conviction?" If they responded in the affirmative, they were asked what types of records were restricted. Sixty-three percent of the prosecutors indicated some

²¹ Alabama, Arkansas, Hawaii, Illinois, Iowa, Maine, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.

²² This information on sealing or expungement is drawn from AUSTIN, LEVY, & COOK, *supra* note 10.

²³ See the discussion of the weakness of expungement procedures in Lemert, *supra* note 8, at 382-83. See also Baum, *supra* note 8; Kogon & Loughery *supra* note 8.

²⁴ See AMERICAN BAR ASS'N COMM'N ON JUVENILE JUST. STANDARDS, STANDARDS RELATING TO JUVENILE RECORDS AND INFORMATION SYSTEMS, (1977); MODEL COURT SYSTEMS AND TECHNOLOGY COMMITTEE, *supra* note 11.

²⁵ See M. LEVIN & R. SARRI, *supra* note 19.

records were restricted to them. Of those who said records were restricted, 53 percent said police files were restricted, 67 percent said probation department juvenile files, and 95 percent said juvenile court records.

The analysis examined the amount, quality, and use of juvenile information the prosecutor receives in light of the above statutory restrictions. The findings are perhaps contrary to expectations. There was no evidence that the presence of any of these legal restrictions was related to the amount of information shared. As an example, Table 8 shows a cross-tabulation of whether the jurisdiction has legal restrictions governing the fingerprinting and photographing of juveniles (yes or no), with the scale discussed earlier (Table 4) on the overall extent of juvenile criminal history available to the prosecutor. No significant differences are apparent. Further, none of these restrictions were related to the type of juvenile data received (*i.e.*, state or local) or the frequency with which the police brought the prosecutor juvenile records; or the extent to which the prosecutor sought juvenile records.

TABLE 8
 AMOUNT OF JUVENILE RECORD INFORMATION,
 BY LEGAL RESTRICTIONS
 (N = 71)

| Fingerprints and Photos of Juveniles Restricted | Juvenile Records Available to Prosecutor (percent) | | | | Total |
|--|---|-----------------|----------|--------------------------|-------|
| | None | Slight/ Some | Moderate | Significant/ Complete | |
| No | 9 | 17 | 6 | 17 | 49 |
| Yes | 3 | 11 | 17 | 20 | 51 |
| Total | 12 | 28 | 23 | 37 | 100 |

Further, there was no evidence that the presence of any of these restrictions affected the manner in which the prosecutor used juvenile records in making decisions about adults. Even the extent to which the prosecutor himself reported being legally restricted from access to certain types of juvenile records was unrelated to the extent of information used or the effect of such information on his decisions. A majority of the prosecutors reported being restricted from using juvenile court records; but those respondents appear to rely on police and probation records instead.

However, the presence of these legal restrictions was related to the prosecutor's assessment of juvenile record quality: the greater the legal restrictions, the lower the perceived quality of the juvenile records. For

example, prosecutors were more likely to rate the juvenile records as being incomplete or inaccurate in jurisdictions where the police were not permitted to photograph or fingerprint juveniles.

These findings on the relationship between legal restrictions and the extent, quality, and use of juvenile records have a number of implications. It may be that violent crimes by youths have created pressure for information regarding juvenile records, so that while a number of legal procedures to limit this information are theoretically available, in practice this legal machine has little effect, and the effects it has produced may not be in the desired direction. Such statutes may be reducing the quality rather than quantity of the information.

The finding that prosecutors rely heavily on police and probation records for juvenile history information is of some concern because it is unclear what types of information these reports contain. The subject of the contents of these reports is extremely important because virtually all juveniles who come into contact with the police may have police records. In some jurisdictions records are made (complete with mug shots) and maintained on even those juveniles "picked up" by police and released without further action.

One danger in using these police records is that they do not always accurately reflect the minor's conduct. A former Los Angeles judge recently described a case involving a 14-year-old youth whom the police charged with child molesting because he kissed his 13-year-old girl friend in public. The police reprimanded the boy and sent him home, but the arrest record labeled him a child molester, and was part of his social profile for the rest of his life.²⁶

The potential for the misuse of police record information is great. Similar problems apply to probation reports, which list every contact a minor has had with the police. A list of numerous contacts on a youth's record is likely to create a strong bias against him. Yet a contact may not even mean an arrest, and even an arrest may not have resulted in conviction. If the matter never proceeded to trial, theoretically the minor has been cleared. But the inference that will be made by most is that "where there's smoke, there's fire."²⁷

Based on these limited data, it appears that the law does not seriously affect the prosecutor's access to juvenile records; however, it may affect the records' quality. The result may be that prosecutors rely heavily on what may be incomplete or misleading information.

²⁶ J. SORRENTINO, *THE CONCRETE CRADLE: AN EXPLORATION OF JUVENILE CRIME—ITS CAUSES AND CURES* (1975).

²⁷ On this particular question, the appellate court ruled in *People v. Calloway*, 37 Cal. 3d 905, 112 Cal. Rptr. 745 (1975), that a juvenile court may not consider a youth's police record in passing sentence.

B. THE RELATIONSHIP BETWEEN JURISDICTIONAL AGE
AND INFORMATION-SHARING

It is quite possible that the legal age of maximum juvenile court jurisdiction influences information-sharing. If the adult court assumes jurisdiction at age 16, as opposed to age 18, the pressure for information on juvenile activities may be lessened simply because a larger fraction of the criminal career is recorded in adult records. Thus, the adult court may perceive little need to find out about previous activities. This hypothesis is examined below.

The maximum age of juvenile court jurisdiction for the sample closely approximates the national situation. The survey data on variations in information-sharing by age of jurisdiction, showed that the extent of information-sharing increased as the age of maximum juvenile court jurisdiction increased. The police provided juvenile records to the prosecutor earlier and more often in jurisdictions where the maximum age of juvenile court jurisdiction was 17 ($\chi^2 p < .05$). Table 9 illustrates this point by a cross-tabulation of jurisdictional age, by the point in the proceedings when a prosecutor becomes aware of the defendant's juvenile record. These findings must be regarded as tentative, since there were too few jurisdictions with a 15-year-old maximum jurisdictional age to permit statistical analysis.

TABLE 9
POINT IN PROCEEDINGS WHEN JUVENILE RECORD IS
KNOWN, BY AGE OF JUVENILE COURT
JURISDICTION.

| Age of Jurisdiction | Cumulative Percent of Respondents Who Would Know About Juvenile Record By The Time Of | | | | | |
|------------------------|--|-------------------|------------------------|---------------------------|------------|-------|
| | Bail Hearing | Filing Charges | Preliminary Hearing | Pre-Trial Negotiations | Sentencing | Never |
| 15 (n = 8) | 25 | 37 | 37 | 50 | 50 | 50 |
| 16 (n = 16) | 7 | 27 | 27 | 67 | 80 | 20 |
| 17 (n = 47) | 0 | 19 | 27 | 52 | 81 | 18 |

Maximum age of juvenile court jurisdiction was not related to either the quality of juvenile records or the prosecutors' ratings of how juvenile records influenced their decision-making. The expectation was that prosecutors in jurisdictions with a higher age of majority would use juvenile record information more. Logically, they should feel more confident about relying on information that pertains to a larger part of the defendant's criminal career. However, there was no support for this contention; and in fact, the data suggested the opposite. That is, prose-

cutors in age 15 and 16 jurisdictions were *more* likely to say that juvenile records had a "significant effect" on each of their decisions, from diversion through sentencing. This finding is consistent with the notion that regardless of the legal distinctions, persons are treated as juveniles through age 18.

C. ADMINISTRATIVE PROBLEMS AND INFORMATION-SHARING

Most of the responding prosecutors reported serious administrative problems which hindered their access to juvenile records. Some said they had insufficient staff to locate past criminal histories; others had problems locating the records. The records were often not centrally stored, and even if the location of the records was obvious, they were still not easy to retrieve. A significant number of prosecutors (38 percent) claimed that lack of cooperation from other criminal justice agencies hampered their access. Prosecutors who reported these problems were less likely to search for additional juvenile history information and more likely to rely on information in the police investigation report. Although these administrative problems were statistically related to the extent and type of juvenile information in a jurisdiction, there was no relationship between these problems and the degree to which the prosecutor used juvenile record information in decision-making. Apparently, administrative problems significantly affect the extent and type of information to which prosecutors have access, but regardless of these factors they use the information similarly. This suggests that these administrative problems encourage prosecutors to use less than complete juvenile histories, but that they use them, nonetheless.

D. SIZE OF JURISDICTION AND INFORMATION-SHARING

Each of the responding jurisdictions was classified as a small, medium, or large jurisdiction based on the number of felony cases it handled per year.²⁸ The relationship between size of jurisdiction and the various aspects of information-sharing was examined.

Although the affect of jurisdiction size upon information-sharing is unclear, larger jurisdictions may have higher levels of crime²⁹ and thus have a greater need to utilize complete criminal history information. On the other hand, because larger jurisdictions are more likely to be plagued with more serious congestion, the records kept and disseminated may be more incomplete. Smaller jurisdictions may have a more

²⁸ Small offices were those that processed fewer than 2000 felony cases per year (41 percent of the jurisdictions); medium offices processed between 2001-5999 cases per year (38 percent); and larger offices processed more than 6000 felony cases per year (21 percent).

²⁹ There was a positive correlation between the size of the office (*i.e.*, number of prosecutors) and the violent crime rate for the county in which the District Attorney was located.

manageable task in creating and disseminating juvenile record information. The data suggests that no association exists between size of jurisdiction and the extent or type of juvenile records the police brought to the prosecutors, or the prosecutors sought out themselves. Smaller offices were just as likely to receive and solicit juvenile histories as larger offices. Significant differences were found, however, with respect to the size of jurisdiction and the extent to which the prosecutor said juvenile histories had a significant impact on decision-making. The larger the jurisdiction, the more likely the prosecutor was to use juvenile histories at every stage of adult processing ($\chi^2 p < .05$). It may be that with a more serious crime problem, the prosecutor uses all available information and is less likely to be influenced by other competing theories.

E. THE PRESENCE OF COMPUTERIZED JUVENILE RECORD-KEEPING SYSTEMS

Approximately 20 percent of the jurisdictions reported some type of juvenile computerized record-keeping systems on the local or county level, and eight percent of the jurisdictions reported a statewide juvenile computerized system. However, the presence of a computerized system was not statistically related to the prosecutor's assessment of the quality or amount of information received, or the effect of such information on case dispositions.

VIII. SUMMARY AND CONCLUSIONS

This survey indicates that information-sharing practices are so varied between juvenile and adult courts that few generalizations can be made. Few jurisdictions report "always" or "never" having juvenile information. The vast majority of jurisdictions receive juvenile record information sporadically—when the police officer has personal knowledge of the defendant's background, or when the crime is particularly serious. Prosecutors and police report few formal directives in this area. Information-sharing is primarily the result of local policy, subject to the whims of the police, prosecutor, and probation officer.

These results will be differently interpreted depending on one's perspectives—some will find the glass half empty while others will judge it half full. The main findings are recapitulated below.

- Nearly half of the adult prosecutors responding to the survey reported receiving little or no juvenile record information on young adult felony defendants in their jurisdiction. When juvenile records were available, they nearly always referred to local rather than statewide arrests and dispositions. When statewide information was available, the prosecutor rarely used it because he judged the information difficult to interpret and incomplete.

- Important prosecutorial decisions are made concerning young adult felons without knowledge of their juvenile histories. Even when the prosecutor obtains information, it often arrives so late in the proceedings as to have little effect on early decision-making, such as whether to file charges or which charges to file. By the preliminary hearing, only 28 percent of the prosecutors said they were likely to have knowledge of the young defendant's juvenile record (56 percent would have knowledge of the adult record).
- If prosecutors had fuller knowledge of a young adult's juvenile history, they would not hesitate to use it in most aspects of case disposition, although an adult record would carry more weight. Forty-four percent of those jurisdictions currently receiving only slight juvenile record information said such information would have a significant effect on their decisions if it were available. Knowledge of the juvenile record would not profoundly affect decisions regarding bail, but would affect the chances of diversion, dismissal, and plea bargaining. However, knowledge of the juvenile record was perceived as less important in reaching a decision on final sentence severity.
- Statutory restrictions (*e.g.*, existence of confidentiality statutes, expungement and sealing statutes, ability of police to fingerprint and photograph juveniles) appeared unrelated to the amount of information shared, or the impact of such information on decision-making. However, there was a relationship between statutory restrictions and the assessed quality of the information: the more the restrictions, the more the prosecutor complained about the quality of juvenile records.
- The prosecutor's opinion of the quality of juvenile record information was not related to the extent to which it was used in deciding case dispositions.
- Prosecutors judged probation records the most accurate, although police records were used most often. An examination of these police records revealed that in many instances dispositions were not reported.
- The age of maximum juvenile court jurisdiction was associated with the amount of information shared: as information-sharing increased, the age of maximum jurisdiction increased. If the adult court assumes jurisdiction at age 18 as opposed to 16, the pressure to obtain information from the juvenile court may be heightened because the activities of ages 15-16 are deemed important.
- The data reflect no association between the size of the prosecutor's office and the extent or quality of information shared between the juvenile and adult courts. However, larger jurisdictions (with higher crime rates) reported that juvenile histories were more likely to significantly affect each stage of adult decision-making.
- The presence of computerized, as opposed to manual, information systems does not appear to increase the amount, quality, or use of the juvenile record information by the prosecutor at the present time. Perhaps over time computerization will increase the sharing of juvenile and adult criminal histories.

Whether the prosecutor's position regarding access to juvenile records, is the result of self-conscious policy decisions or accident remains unclear. Police and prosecutors may only review juvenile records in marginal

cases where the prior record will make a difference. It is possible that the records are randomly distributed and represent no conscious selectivity at all. That question cannot be resolved by asking prosecutors alone, since they are strongly motivated to see some rational basis behind the patterns of access with which they must contend.