

**NEW SOUTH WALES BUREAU OF CRIME STATISTICS AND RESEARCH
40TH ANNIVERSARY SYMPOSIUM
18-19 FEBRUARY 2009**

**THE TRIALS AND TRIBULATIONS OF SETTING UP A CRIME RESEARCH
CENTRE IN GOVERNMENT**

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Today, I have been invited to reflect on the Bureau's foundational years and in doing so I dispel any idea that that period was necessarily more important than others in the now substantial history of the organisation. But in so far as the establishment phase called for particular strategies, and the very fact that we are here celebrating the Bureau's fortieth anniversary, I dare say what transpired in the beginning is of some interest.

Let me set the scene at the Bureau's operational beginnings in the early 1970s. It was launched in a veritable criminal statistics wilderness. The Bureau was conceived of as an agency that would *symbolise* contemporary criminal justice management by providing technically acceptable statistics detached from policy issues. You could fairly say the existing technical challenge bar was set very low. For example, I was informed by a very senior departmental officer that the process used for calculating annual Petty Sessions statistics resembled the decision-making methods of two dart-throwing bureaucrats in an old French movie. A Sergeant based at Central Court would ask those within hearing distance whether this or that offence was 'up or down this year' before recording imagined numbers in an impressive volume known as *Big Ben*.

The Minister responsible for the Bureau at the time it was created, John Maddison, was a man who harboured divided sentiments. On the one hand, he upheld the merits of firm public order, reflected in his espousal and particular interpretation of a UN policy called *Social Defence*, a version of the 'thin blue line' view of public order. On the other hand, he entertained more liberal, progressive and humanistic leanings sustained partly by collaborations and scholarly publications with his brother David, at the time Professor of

Psychiatry at Sydney University. These different inclinations had to be juggled within his role as Minister of Justice in a conservative state government.

Other salient features of the opening scene at the Bureau include the role of the Under-Secretary (Ken Downs) who from the outset gave us the benefit of his vast court administration experience, a supportive and insightful Advisory Council, Public Service Inspectors who saw it as their responsibility to ensure the cooperation of court staff, the help of the Design Section of Public Works to ensure that statistics were effectively communicated, and the full cooperation of the Police Department and its Records Section. Surely it was a case of 'full steam ahead'? Well, not quite. The lynch pin bearing most, if not all of these supportive arrangements was a presumed consensus about the role to be performed by the Bureau. The compilation of accurate court statistics was a clear expectation on all sides. The public's unfettered access to that information was something else. The public service was a closed shop when it came to frank disclosure of data.

Yet it was for the very purpose of compiling information that would contribute to policy decisions that my colleagues and I had joined the Bureau. Of course I anticipated that the governmental culture of the day would be antagonistic to that ambition and believed that our hopes rode on three things. First, that our energy and thoroughness in garnering and processing the court statistics would attract professional endorsement of our technical competence. Second, we could appeal to the Minister's scholarly/progressive self-image and secure the direct, independent publication of our reports - in contrast to the pre-publication vetting that occurred elsewhere in the service. An explicit pact was developed between the Minister and the Bureau: an unrestricted flow of accurate information to administrators and the public would be permitted in exchange for consistent public acknowledgement that credit was due to those who allowed the full and frank dissemination of research findings. The Minister only received his copy of each report after it had been printed. On one occasion John Maddison said to me that when he started to read a report he moved to his office window not knowing whether to pray to the

powers above or jump – the latter possibility reflecting his nervousness about the anticipated response from his Cabinet colleagues.

So far as the media was concerned, the novelty of regularly published official data that generated discussion of possible ways of improving the administration of justice attracted both surprise and commendation. Let me give you an example. The then top ranking current affairs show was *Mike Willis*. The host asked me if a recently released report on the association between legal representation and more favourable penalty outcomes (after controlling for offence histories and type of offence) amounted to there being ‘one law for the rich and one for the poor.’ When I agreed that there was that worrying implication he looked puzzled and stopped the recording of the interview. ‘Are you a public servant’ he asked as we adjourned for a coffee. He said that he had not struck such candour before and asked if I would be “Alright.” He then granted my only request, namely, the chance to commend the Government for allowing such frank investigation of possible social improvements. And this became the pattern across the media whose agents ranged from the sophistication, thoroughness and independence of the *Herald’s* then equivalent to Adel Horan, a gentleman called Gavin Souter, who was briefed well in advance of release dates, to the tabloid representatives, like the Sunday morning radio program called *What happened in Sydney last night* which attempted to record commentaries on Friday afternoon. “You know what will happen,” I was told, “it’s always the same!”

The third element of our strategy was to sustain the independence granted to the Bureau by the progressive Minister of the day by having the unit constituted as a statutory authority. If it were a statutory authority the Bureau would remain part of the NSW Government but operate as an independent body. The proposal ultimately was deemed not to be possible. However, as the Bureau continued to attract the commendations of professional people and settled into a mode of operation that stirred debate without causing gratuitous embarrassment to the Government, it began a process that I believe has continued down to the present. Sustained, honest, factual reporting brings its own protection by way of increasing the political risks for those who would deprive the

community of a valued source of information. The Minister's own actions in participating in public forums engendered by the Bureau's research also lent an element of normalcy to its work and by that ministerial identification quietened most dissenting voices within the Government. Of course there were dissenting voices then, as there probably are today. One ex-fighter pilot member of the Government given to frequent exclamations of the 'bandits at one O'clock, bandits at one O'clock' variety thought the whole concept was a mistake and that we should be shot down.

The mind-set of many members of the legal profession was a less anticipated source of concern. Those of us with a social science background were habituated to summing across instances or cases to derive an overall picture of an issue, albeit with acknowledged variations. Some prominent legal authorities had a different habit of thought: cases were distinct entities with their own logic and non-combinatorial features. The idea of constructing a scale of relative severity of punishment that combined two or more formal categories as a single step on a scale, a commonplace manoeuvre in social research, was initially opposed on such grounds. I think it was the compelling outcomes of a number of analyses that simply over-ran the inflexibility of such thinking.

The NSW magistrates had a separate reason for objecting to some of our analyses. The insertion of a social stratification index into certain Petty Sessions data opened up the possibility of examining sentencing in the light of defendants' social positions. That seemed to indicate an independent benefit associated with social background and prompted much serious debate directed at identifying possible explanations. It became a regular duty of the Bureau's Director to face the assembled magistrates at their conferences at Little Bay, often with a lead protagonist creating a scene somewhat reminiscent of a boxing match. Little wonder that the Chief Magistrate of the day stepped into the 'ring' on one occasion and held up the hands of the two main combatants declaring the bout a draw. Such occasions were always marked by a combination of seriousness and conviviality. The Bureau had much to be grateful for from the cooperation of the senior magistrates.

An example will illustrate that cooperation and introduce a very brief review of some of the policy gains from these endeavours. In the 1850s a committee of the NSW Parliament had written of the pointlessness of putting inebriated vagrants through the revolving door of arrest, detention and re-arrest. Yet 120 years later such offences still accounted for 33% of the State's arrests and 30% of admissions to prison. Bureau staff attended the court hearings, rode the paddy wagon on its nightly trawl of the city, examined and counted the frequency of arrests of individuals (including some prominent figures like Jesus and Gandhi), compared their records with those of a cross-section of Sydney men, and interviewed those imprisoned as they were about to be released. A series of well publicised reports and a public forum exposed the ineffectiveness and unfairness of current practices, especially since those with the foresight to put the necessary bail money in their sock exempted themselves from a court appearance and the results that could flow from it (including a spell in gaol or assignment to a remote psychiatric hospital). The Deputy-Chief Magistrate made an unexpected call one morning to announce that 'from today no one will go to gaol for public drunkenness. If any cases to the contrary arise anywhere in the State let's know and we'll stop it from happening.' It was a year or two later, following a public forum on victimless crime that that unofficial but effective policy became legally consolidated.

Another major policy impact involved the analysis of Local Court statistics from the previously mentioned perspective of the influence of legal representation upon penalties. At the time the quantum of funded financial support for legal aid was meagre. The Bureau's research results became, in the hands of the Federal Attorney Senator Lionel Murphy a *tangible* justification for introducing an Australian Legal Aid Service. It is seldom, if ever the case that a major policy development can be ascribed to a single influence. It is sometimes the important function of criminological research to ease the path to a policy step of widely perceived merit but which needs the jolt of evidence, and the concentrated attention that accompanies it, to gain tangible expression.

Time does not permit the full canvassing of similar examples but, in general, attracting commissions of inherent value from influential agencies certainly helped to strengthen

the Bureau's organisational foundations. Undertaking an evaluation of the pilot of the 'Hearings for direction' procedure in the NSW Supreme Court at the request of Mr Justice Meares had both important consequences and confirmed the policy contribution of the Bureau's research. Being commissioned by Professor Ronald Henderson to conduct socio-legal research for the Australian Poverty Commission strengthened the professional legitimacy of the fledgling research unit. As also did collaboration with the police in weapons research and research into sexual assault offences, the interdisciplinary investigation with the Department of Health of medico-social factors contributing to juvenile violence, a study of the experience of jurors, providing sentencing feedback to sentencers, and other topics. An important part of the establishment period was the Bureau's integration with other research and human service arms of the state public service and in some areas, the Commonwealth Public Service. Not all of this activity resulted in policy changes although in some instances it did, in others it seemed to contribute to later developments and in still others – like strengthening our most disadvantaged and crime-ridden neighbourhoods, I say, in addition to the work of Ross Homel and his colleagues, watch this space!

All of this was but the beginning within the Bureau of four decades of a very rich tradition of ever-more sophisticated research, under inspired later leadership and involving fine researchers whose projects I never cease to admire. Perhaps transcending the many specific contributions that have been made has been the demonstration over decades of the political as well as social wisdom of the Minister who enabled it to all happen in the first place: it *is* possible to sustain that level of research integrity, balance and public candour which makes reports believable, while bringing credit to a Department and Government prepared to facilitate rational debate with relevant factual information. Let us hope that this boon remains a part of the administration of justice over the next forty years and beyond, and that the principles involved are more widely taken up within other areas of government administration.