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NATIONAL SERIES ON STATE JUDICIAL CRIMINAL STATISTICS DISCONTINUED

Harry Alpert

The author is Chairman of the Department of Anthropology and Sociology at Queens College, New York. At the time of writing this article he was serving with the Division of Statistical Standards of the Bureau of the Budget to which he is still attached as a Consultant. He represented the Bureau of the Budget at the Attorney-General's National Conference on the Prevention and Control of Juvenile Delinquency, and worked with the Conference's Panel on Statistics. The article, an abridgment of a paper read before the American Statistical Association in December, 1947, presents the considerations which led to the decision to discontinue the national collection of judicial criminal statistics. The opinions expressed are the author's own and do not necessarily reflect the official views of the Bureau of the Budget.—EDITOR.

The Bureau of the Census decided in November 1946 to discontinue its annual collection of state judicial criminal statistics. This decision was the outcome of more than a year of deliberation and consultation and was based on the advice and suggestions of criminologists, criminal statisticians, court officials, judges, administrators, and other experts who, as producers and consumers of this statistical series, had a direct stake in its continuance and development. This re-examination of the series was prompted by the Division of Statistical Standards of the Bureau of the Budget. The Budget Bureau in 1945 advised the Bureau of the Census of the serious limitations of the series with respect to coverage, comparability of data, and uniformity of reporting. It noted the absence of clear-cut evidence that the statistics in the present form were of any value to students of criminology, criminal law, and allied fields, and recommended that a study of the matter be undertaken.

The series on state judicial criminal statistics was begun by the Bureau of the Census in 1932 in response to expressed interest in the field by various professional groups, including law schools, research agencies, bar associations and judicial councils. The National Commission on Law Observance and Enforcement (Wickersham Commission) had included in its *Report on Criminal Statistics*, issued in 1931, recommendations for a comprehensive plan for national crime statistics and for the establishment of a central national bureau of crime statistics in the Bureau of the Census. These were not new proposals but summarized the suggestions made by numerous criminologists and statisticians since the beginning of the century. Additional impetus to the collection of uniform judicial criminal statistics came from the activities of the Institute of Law of John Hopkins Uni-

versity. The status of such statistics in 1931 was well summarized by Professor Thorsten Sellin who, in that year, remarked that "State judicial statistics * * * have rarely been so compiled, tabulated or analyzed that they are of the slightest value to anybody." Under these circumstances the Bureau of the Census undertook in 1932 to collect annual statistics on the offense and disposition of criminal offenders in the courts of general jurisdiction in the several states.

Why did this series on judicial criminal statistics fail after 14 years of effort? We define failure operationally in terms of demise, without prejudice to the question whether the Bureau of the Census did as well as might be expected of a small project operating in a difficult field.

Analysis of the factors leading to the demise of the series may well serve as a fruitful guidepost to both statisticians and administrators responsible for statistical products. These factors may be classified under two major rubrics: (1) the statistical factors, that is those relating to the statistical product as such, and (2) administrative factors, that is those relating to the inter- and intra-agency relationships involved and to the relationships between the producers and the consumers of the statistics. The two sets of factors are obviously closely interconnected. Inadequate coverage, for example, may be the result of ill will engendered by the types of demands made on respondents by the collecting agency.

Viewed as a statistical product, the series had serious limitations. These were (1) incomplete and inadequate coverage, (2) narrow scope of the data collected, (3) lack of comparability, (4) questionable reliability, (5) improper presentation, (6) insufficient analysis and interpretation, and (7) absence of timeliness.

Coverage

In 1932 only 16 states cooperated in the series on judicial criminal statistics. The number rose to a high of 30 for the years 1935-36 and then declined. In 1944 twenty-four states participated, and this number was increased to 25 in 1945 by the addition of Texas. This was the first time that any southern state was included in the series. Twelve southern states and Nevada were never included and 11 states dropped out of the series at one time or another.

Another aspect of the problem of coverage was the incomplete reporting from courts within a state. Not all state reports covered every court of general jurisdiction in every county of the state. For example, reports from Wisconsin for 1944 covered

only 61 of the 71 counties of the state. In all, data were received in 1944 for every county of 12 of the 24 states and in eight of these the coverage was also complete for the preceding 4 years. For each of an additional eight states reports were received from groups of counties which in 1940 contained more than 90 per cent of the population of the state. In the 4 remaining states the coverage ranged from 60 to 89 per cent of the population.

Scope

As previously indicated, this series presented statistics on the offense and disposition of criminal offenders in courts of general jurisdiction.

Those familiar with the series recognized that it provided statistics on the criminal case business of the courts involved. And it was possible to derive from them a certain amount of useful information. One criminologist noted that, "These statistics do throw light on certain practices in our criminal courts such as the gradual disappearance of the plea of not guilty and the jury trial, and the increasing use of probation and suspended sentences, etc." But such information is of limited interest to students of criminology. The same criminologist just quoted showed great disappointment in the series and deplored the lack of fundamental data.

A basic weakness of the series was the complete absence of information regarding the characteristics of the defendants involved in the cases reported. A professor of criminology who participated in the plans leading to the original development of the series recalled that:

"When this collection was begun, everybody knew the limitations but hoped that clerks of court would become used to reporting and that gradually some more detailed information about defendants would be secured so that we would have a broader base on which to judge offenders than the one offered by the highly selected group which enter our State and Federal prisons for adults."

Another student of the judicial processes deplored the failure to continue collecting data on all cases filed charging crime. Limitation of the survey to the disposal of criminal cases meant, in his opinion, loss of valuable information regarding the nature of court operations. He wrote:

"As much of the inefficiency and also of the delinquency of officials of the courts handling crime cases is found in the dickering, the stalling, the continuance, etc. of cases after complaint has been filed, it is useful for thorough students of crime to see how cases drag (and why—at least as ostensible reasons—) after cases are begun."

Comparability

These statistics were collected only from courts having general felony jurisdiction. Most states have a court of general juris-

diction in each county. These courts have authority to dispose of all serious felony offenses and of such minor or misdemeanor offenses as are not within the exclusive jurisdiction of inferior courts. Since the misdemeanor jurisdiction of these courts is thus essentially residual and varies not only from state to state but also from county to county within the state it is impossible to rely on the figures reported by such courts as a true picture of the disposition of minor offenses in a given state or to make comparisons from one state to another. Moreover, not even the data regarding felony cases can be accepted as comparable from state to state. There is considerable variation among the states with respect to the types of felony cases that may be handled by courts other than those of general jurisdiction. In some states, municipal courts and county courts of limited jurisdiction dispose of felony charges. Consequently statistics based on reports from courts of general jurisdiction cannot account for the prosecution of all offenders charged with felonies. The variations in the data resulting from the widely different jurisdictions of the reporting courts were undoubtedly less with regard to major offenses, but even here there were differences which rendered comparative analysis extremely treacherous. A state chief justice wrote that, for purposes of comparison between states, judicial criminal statistics were not of much value because of different conditions prevailing in different parts of the country.

Another factor affecting comparability was the variation in the offense classifications used by the several states. Laudable efforts were made to achieve standardization of offense classifications. The offense classifications which the Bureau of the Census used in the Judicial Criminal Reports and still uses in its Annual Report on Prisoners in State and Federal Prisons and Reformatories are based on the uniform classification of offenses which was worked out by the Federal Bureau of Prisons, the Federal Bureau of Investigation, and the Bureau of the Census in 1932. The classification actually used in the judicial criminal series represented condensation of this uniform classification. Nevertheless, variations in offense classification among the states still persisted.

Reliability

The problem of reliability of the data in this series was well presented by an official of the Bureau of the Census: "For the most part, the initial classification of cases is made by clerks of court, who are busy, relatively untrained in the collection of

judicial criminal statistics, and, in general, somewhat reluctant.” A serious limitation in reliability was derived from the fact that, in most states, court clerks used a tally sheet method of recording cases. In two states—Ohio and Minnesota—statistics are collected by means of an individual case card. Under this system the person presenting the initial data is responsible only for recording the basic facts about the case, and subsequent classification is made according to a uniform system.

The 1944 report of the Bureau of the Census noted that the case card method is far more flexible than the tally sheet method because it makes possible a more intensive analysis of the data collected and may quite easily be adapted to the particular record keeping routines used by different clerks of court. It was generally agreed that improvement of the reliability of judicial criminal statistics would have depended largely on the widespread introduction of the case card system. In this connection it should be noted that the Bureau of the Census found it practically impossible to convince court clerks that the use of the case card system would not materially increase their workload.

Presentation and Analysis

Extremely small type, monotonous page layout and absence of graphic charts and other devices for catching reader interest led to the charge that the final reports as presented to the public were unreadable, boring, and a strain on the eyes. A distinguished criminal statistician pointed out that the failure to present judicial statistics in an attractive and interested manner has in large part vitiated the labors involved in their collection.

One Federal official remarked: “I barely glance at these reports as they make their way from my incoming box to the waste basket; they are unreadable.” A professor of criminology in a large midwestern university commented that in his opinion the reports on judicial criminal statistics were not widely used primarily because they have continued to be put out without recognition of the interests of the persons who might use them and with very little effort to make them interesting or to integrate them with other material in the field of criminology. Another factor creating lack of reader interest was the complete absence of analytical interpretation of the raw data presented. It may be argued that the responsibility of the Bureau of the Census was discharged with the simple presentation of the basic tables, but many of the consumers of these statistics expressed a strong desire to have more analytical materials included.

Timing

Timeliness may not appear to be too important a consideration in a statistical series of this sort. Nevertheless, officials in the several states have complained about the length of time involved in the issuance of the National Summary. Typical of this type of complaint was the following comment of a state official:

“The value of these statistics to the Bureau would be much greater, however, if it were possible to complete and distribute the National Summary considerably sooner. The 1944 Summary was not received by us until June 1946.”

The Bureau of the Census followed the commendable practice of issuing the individual state reports as soon as they were ready. For the 1944 series, the first report, for Rhode Island, was issued on June 21, 1945, and the last one, for Washington, on May 23, 1946. The National Summary, however, was not available until June 19, 1946.

Administrative Factors

In addition to, and closely inter-related with the statistical limitations of the series on judicial criminal cases were the administrative factors which impeded the progressive improvement of these statistics in the past 14 years. Why did the Bureau of the Census practically stand still as far as judicial statistics are concerned? Four major administrative considerations which affected the progress of this series were (1) the incidental supervision given to the series by the Bureau of the Census, (2) the failure of the States to develop technically competent centralized agencies for the collection of criminal statistics, (3) the lack of interest of professional groups in the reports of the Bureau of the Census, and (4) the absence of continued operating relationships between the Bureau of the Census and the courts.

Incidental Supervision

The collection of judicial criminal statistics was a part-time responsibility of a Census official who also had primary responsibility for several other important statistical compilations. Under these circumstances judicial criminal statistics necessarily acquired a “step-child” status. A related consideration was the shifting of the work from one Division to another. A former employee of the Bureau of the Census has put the matter thus: “Part of the reason why criminal statistics have not been improved materially during the past ten or more years has been due, I believe, to the fact that it is not thoroughly integrated into any one Division of the Bureau of the Census but has rather been moved back and forth from the Population Division when they

are conducting a census to the Division of Vital Statistics, and then back again when the census is completed. Under such a procedure it is difficult for the division chiefs to become familiar with the problem of criminal statistics or for any long range plans to be worked out."¹ Since the major responsibilities of the Bureau of the Census lay elsewhere it was impossible for the Bureau to give to this series the sustained and serious attention which it required.

Lack of Statistical Bureaus

The statistics with which we are concerned are a by-product of an administrative process. It is frequently difficult to convince administrators that fact-gathering is an essential part of their operation. Many courts still regard statistical activities as incidental or as a necessary nuisance. Consequently, the number of good statistical bureaus is still limited, although there has been improvement in this direction. Without such bureaus, the collection of judicial criminal statistics can make little progress. The considered judgment of a distinguished criminologist underscores this point:

"I have reluctantly come to the conclusion that the future of our criminal statistics in the United States is bound up with our ability to secure good statistical bureaus in the states. These bureaus could, within the more limited areas, standardize reports and secure more detailed information from all kinds of agencies dealing with offenders. . . . If we could get the bureaus established a national agency such as the Census Bureau could secure much more detailed information on a uniform basis. However, I suppose that unless there is some group set up to pursue this question and work with interested parties in the different states in order to get statistical bureaus organized and then provide them with some kind of blueprint for their work, nothing may happen for some time to come."

Role of Professional Groups

This last remark points up a third difficulty encountered in this series, namely the absence of vigorous activity on the part of professional groups working in this field. The collection of these statistics was most successful in those states in which some individual, thoroughly convinced of the values to be derived from the statistics, took an active part in their collection or where some group or organization worked closely with the local court officials. In general, however, the professional groups did not devote much attention to this series.

The Lack of Operating Relationships

Since the Bureau of the Census had no operating responsibilities vis-a-vis state courts it had no means of insuring the col-

¹ The Division of Vital Statistics is now the National Office of Vital Statistics of the Public Health Service.

lection of judicial statistics. Moreover, its staff was inadequate to provide for direct and continuous consultation with the States. As a result, the interest of the States in improving their judicial statistics inevitably lagged. This situation stands in sharp contrast to that involved in the collection of the Uniform Crime Reports. In the latter case the close daily relationships between the Federal Bureau of Investigation and local police departments is an important factor in obtaining cooperation and in maintaining interest in the continuance of the reports. Although the Census Bureau can provide technical statistical guidance it does not have personnel with sufficient intimate knowledge of court operations to evaluate the special problems encountered by court clerks or to set up the free informal relationships which are often helpful in insuring cooperation.²

Conclusion

Half-hearted interest, incidental supervision, lack of support by consumers, absence of appropriate mechanisms of cooperation and inadequate source facilities all contributed to render this statistical series rather ineffectual. Nevertheless, the project leaves a residue of modest accomplishment. The case card system of reporting is being continued by state bureaus in Ohio and Minnesota, and a similar system of individual case reporting, which grew out of the Census project, has been set up in Michigan. In each of these three systems, steps are being taken to collect information on the personal characteristics of the defendants. In addition there are several other states which are continuing the collection by the tally sheet method on the assumption that they find the statistics sufficiently useful to justify their collection.

² Similar considerations have led to the recent transfer of the annual series on Patients in Mental Institutions from the Bureau of the Census to the Mental Hygiene Division of the U. S. Public Health Service.