

# Review Commentary

## ***Saving Our Census and Preserving Our History:* Report of The House of Representatives Standing Committee on Legal and Constitutional Affairs<sup>1</sup>**

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*This commentary reviews the background to this report and reflects on its significance as a breakthrough in the campaign against the Australian policy of retaining only de-identified and aggregated data from its census. A review of the report's arguments and evidence suggests some shortcomings. However, a slight recasting of the recommendations suggests a scenario for a change of policy.*

Stephen Mutch says he 'first became interested in this topic many years ago when [he] visited the eminent genealogist Nick Vine Hall ... [whose] ...

crusading zeal infected [him] with the desire to put an end to this senseless census destruction which, no matter how you look at it, is an act of historical vandalism.’<sup>2</sup>

Elected to Federal Parliament in 1996, Mutch put a motion which led to a reference to the House of Representatives Standing Committee on Legal and Constitutional Affairs (LCAC), dated 7 May 1997. The LCAC report, presented on 25 May 1998, found unanimously - in Mutch’s words, ‘that [the present policy], which effectively pulps an irreplaceable historical resource, should end.’<sup>3</sup>

The weight of submissions may help to explain this. There were 291, including some 75 from historical, genealogical, research and archival bodies, and many from individuals, presumably genealogists in the main. The Australian Archives (AA) made three submissions; the Advisory Council on Australian Archives one; the Australian Society of Archivists (ASA) one; the Australian Bureau of Statistics (ABS) five; and the Australian Statistics Advisory Council one. Those appearing included representatives of the AA, the ABS, the ASA, various government departments, various genealogical and historical societies, various medical and social research interests, and the Human Rights and Equal Opportunity Commission.

The result is nevertheless remarkable, given past bipartisan support in Parliament for the ABS destruction policy. Again, it suggests that lay enthusiasm for keeping complete census data now exceeds that of the professionals. There have been two quite opposite views on the matter within the Australian and New Zealand Societies of Archivists and the Australian Archives has been equivocal.

### **The issue of the effect of retention on data quality**

The report describes how the Australian Archives was persuaded to repeatedly approve destruction. While the Australian Archives always insisted that name-identified forms ‘did have value for a range of research uses’<sup>4</sup> - citing advice that ‘individual census returns of a recent nature were regarded by researchers “as a source of information unparalleled in value by any

other source for the purpose of data linkage”<sup>5</sup> - it also upheld the position of the ABS ‘that if the accuracy of the census were compromised by its retention, the value of the records for any kind of research would be greatly diminished.’<sup>6</sup>

This statement, while patently true, includes a vital ‘if’, which is surely worthy of investigation, considering the sacrifice of irreplaceable data that we are making because of it. Instead, the Australian Archives has tested its own position - surveying users of census data in 1996, and finding that half of them valued name-identification.<sup>7</sup> Testing of the ABS claim has had to wait upon this report.

The comparative overcount and undercount rates for five countries are compared.<sup>8</sup> Retentionist America’s net undercount equals that of destructionist Australia, but only because its much higher variations cancel each other out. Retentionist New Zealand has more accurate data than destructionist Australia. The net undercounts of retentionist Canada and Britain are the highest.

One might reasonably suggest that other factors come into it. Even the ABS avoids claiming a general effect, arguing, rather, that particular overseas censuses had been wrecked by outbursts of privacy hysteria.<sup>9</sup> Anyhow, the LCAC finds ‘no precedents, in the experiences of any other country to support a policy of destruction of census forms over a policy of retention ...’<sup>10</sup>

The ABS also alleges a community demand for destruction revealed through surveys and informal feedback.<sup>11</sup> Mutch claims that the ‘self-serving surveys’ were ‘viewed with incredulity’.<sup>12</sup> The LCAC notes that 14% of respondents actually said they would be more likely to fill in the census if they knew it would be retained.<sup>13</sup> It also interprets support for the ABS from other government bodies as bureaucratic collusion.<sup>14</sup>

### **Addressing the substance of privacy concerns**

Very little evidence was put before the LCAC regarding actual risk to peoples’

privacy and rights. However, the application of Information Privacy Principle (IPP) No1 - restriction of use of data to the immediate purpose for which it was collected - is discussed. The problem is that it seems to leave no room for long term uses that may be quite unintended and unpredictable. The Chair of the Advisory Council on Australian Archives suggested declaring long-term open-ended future use as a census purpose.<sup>15</sup> However, this would rather subvert the original intention. A better answer is surely to insist that IPP No1 must be qualified with regard to the effect of lapse of time; its indefinite continuing enforcement being a mischievous nonsense.

### **The research value argument**

The report comprehensively demonstrates the research value of census data, and the extent to which it relies on name-identification. Examples are cited of:

- the use of name identification in genetic research related to diseases;
- the medium-term value of the census for epidemiology;
- the impoverishment of Australian social historiography compared with American, thanks to our destruction of the census;
- the value of named census records for genealogical research; and
- the importance of being able to use names for linkage.

### **Costs of retention in various formats**

Three options are considered: electronic storage; use of microfilm; and retention of the paper forms.

It is estimated that electronic retention of nominate data would add \$14.5m to the cost of present electronic retention of each census without names. The LCAC prefers this option but fails to highlight what is both its advantage

and disadvantage; the ease with which data in electronic format can be found, copied, transmitted and cross-linked, both for good purposes and bad.

Microfilming is costed, and there is a discussion of the security problems of outsourcing. Retention of paper forms is 'not considered to be feasible' on the grounds that 'storage costs would be substantial.'<sup>16</sup> But there is no attempt to determine those costs. Had there been, the LCAC would have discovered that hard copy could be kept for centuries for the cost of its conversion to microfilm or electronic format. Again, a barn-full of paper is vastly more difficult to access, especially illicitly. Paper retention is, in fact, the low-risk, low-cost, low benefit option.

Indeed the privacy problem would probably never have arisen had all data stayed on paper. It is quite ironic that paper records are being, as it were, capitably punished for the criminal potential of their virtual counterparts. Paper census forms, containing comparatively harmless information in a form that is comparatively difficult to access, are being ostentatiously destroyed. This distracts attention from the electronic accumulation of tax, social security, medical, criminal, credit card and financial information by governments and private enterprises alike. As an ABS speaker told an ASA meeting, 'The real privacy concerns ... centred on issues of power, the government having power over individuals, or individuals over corporations [sic!]. *These did not really apply to the census issue.*'<sup>17</sup> Again, the ABS claims that destruction of census data increases public faith in its promises to protect data collected in lesser surveys which it does not promise to destroy.<sup>18</sup>

Or is the policy a farce rather than a fraud? One witness suggested that 'destruction ... as a confidentiality measure' has been promoted to the extent that a change of story is now difficult.<sup>19</sup> That is, the ABS solution has created the problem!

The ABS claims that it has a 'solid compact' with respondents; that they provide accurate data in exchange for 'absolute guarantees of privacy and confidentiality'.<sup>20</sup> But is a promise to destroy records much more reassuring than the British promise that 'the forms will be kept securely ... and treated as confidential for 100 years?'<sup>21</sup> In both cases the citizen has to trust officials

to keep their word. It is probably the level of such trust, rather than the choice to destroy or retain, which determines the degree of public cooperation.

### **Where to from here?**

Stephen Mutch says 'the response of the Australian Bureau of Statistics to this inquiry was negative and, in essence, uncompromising ... the ABS, under its present leadership, would not be able to provide professionally detached and independent advice to the government on the manner in which retention can be achieved without compromising the integrity of the census. Quite simply, the will is not there, nor the willing cooperation that would be required.'<sup>22</sup> His pessimism is not supported, however, by the statement of the ABS speaker to the ASA - that he 'believed it was possible to achieve a balance between the privacy issue and the need to retain the census.'<sup>23</sup>

There might be a way of welding the recommendations of the report into a cautious programme of reform which would offer the ABS a line of withdrawal - safe for the census and face-saving for itself.

It would happen in three stages:

- Stage 1** Destruction of the original paper forms. But
- Stage 2** Medium term retention of complete nominate data in electronic form for indirect access by approved research interests. Leaving open the option for
- Stage 3** Long term retention in electronic format for unrestricted public access after 100 years.

The first stage would enable the ABS to go on doing, superficially, what it is already doing. It would perhaps give the public a greater sense of security.

The second stage is substantially Recommendation Four<sup>24</sup> and a difficult proposition to oppose. It would represent, essentially, a return to the earlier

ABS policy of keeping the raw data forms until 'it was believed that no more tabulations would be required.'<sup>25</sup> There is some precedent for it in current UK practice<sup>26</sup> and a promise of high returns from medical research<sup>27</sup> at a modest extra cost.<sup>28</sup> All use of records would be indirect: the ABS extracting generalised information to the order of researchers. The holding of name information separate from data, but so that the two could only be reunited by high-level decision (as suggested by the ASA) could make this step more acceptable.<sup>29</sup>

The question of progressing to the final stage would arise generations hence. The decision would depend on what we had learned in the meantime and would refer to very old information.

## Conclusion

The ball is back in the court of the National Archives of Australia, formerly the Australian Archives. There will never be a better time for it to take the initiative. A good proposal for census disposal reform could signal the NAA's new maturity under proposed new legislation and initiate an era of far-sighted policy-making for electronic records.

## Endnotes

- <sup>1</sup> House of Representatives Standing Committee on Legal and Constitutional Affairs, *Saving Our Census and Preserving Our History. A Report on the Inquiry into the Treatment of Name-identified Census Forms*, Canberra: AGPS, 1998.
- <sup>2</sup> *Australian House of Representatives Hansard*, 25 May 1998, Mr Mutch at <http://www.aph.gov.au/hansard/reps> - accessed 28 Nov 1998.
- <sup>3</sup> *Ibid.*
- <sup>4</sup> LCAC, *Report, op.cit.*, 2.27 on p. 19.
- <sup>5</sup> *Ibid.*, 2.29, p. 20.
- <sup>6</sup> *Ibid.*, 2.35, p. 22.
- <sup>7</sup> *Ibid.*, 2.34, pp. 21-22.
- <sup>8</sup> *Ibid.*, 3.21, p. 38.
- <sup>9</sup> *Ibid.*, 3.35, pp. 42 - 43.

- <sup>10</sup> *Ibid.*, 3.97, p. 62.
- <sup>11</sup> *Ibid.*, 3.32 & 3.33, pp. 41 - 42.
- <sup>12</sup> Hansard, *op.cit.*
- <sup>13</sup> LCAC, *Report, op.cit.*, 3.89, pp. 59-60.
- <sup>14</sup> *Ibid.*, pp. 65-66.
- <sup>15</sup> *Ibid.*, 4.19, p. 73.
- <sup>16</sup> *Ibid.*, 6.7, p.115.
- <sup>17</sup> Roger Clark, Minutes of ACT Branch ASA, 24 June 1998 - ACT Branch of the ASA, *July 1998 Newsletter*, (my emphasis) at [http://www.archivenet.gov.au/asa/newsletters/ACT\\_NL\\_July98.html](http://www.archivenet.gov.au/asa/newsletters/ACT_NL_July98.html) - accessed 4 August 1998 – p. 3.
- <sup>18</sup> LCAC, *Report, op.cit.*, 3.82, p. 57.
- <sup>19</sup> *Ibid.*, 4.56, p. 84.
- <sup>20</sup> *Ibid.*, 3.29, p. 40.
- <sup>21</sup> *Ibid.*, 2.70, p. 31.
- <sup>22</sup> Hansard, *op.cit.*
- <sup>23</sup> Clark, *op.cit.*
- <sup>24</sup> LCAC, *Report, op.cit.*, p. 139.
- <sup>25</sup> *Ibid.*, 2.12, p. 14.
- <sup>26</sup> *Ibid.*, 2.70, p. 31.
- <sup>27</sup> *Ibid.*, pp. 90-97.
- <sup>28</sup> *Ibid.*, pp. 123 - 126.
- <sup>29</sup> *Ibid.*, 6.36, p. 124. See also Clark, *op. cit.*