

A View from the Magistracy

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(These comments compiled from notes taken of Mr Manos' address - Ed.)

In most Magistrate's Court cases, the issue of bail does not arise. It is only where a magistrate considers that a defendant may abscond or commit further offences that a bail decision has to be made. That is a very serious matter, and the following problems make a decision more difficult:

- An offence usually looks worst when it has just been committed here may be a lot of community or victim anger that can affect decision-makers;
- In cases where bail is an issue, there is frequently little time between the offence and the bail application - often too short a time for in-depth consideration;
- Invariably, the arresting officer, who is most familiar with the facts of the case, may not be in attendance at the court;
- Any subsequent bail applications may be handled at court by different prosecutors, defence counsel or magistrates;
- No assessment is possible of suggested guarantors who are seldom in attendance at court for the bail hearing; and
- There is very limited, and often fairly shallow, material or information available to assist a magistrate make a bail decision.

Despite those difficulties, we of course continue to release people on bail. Indeed, the South Australian *Bail Act 1985* is a good piece of legislation in many ways; for instance, its requirement under section II (9) that a person who cannot meet bail conditions must be returned to court each five days for a review of his or her position.

While there are problems with the bail process, they do not exist exclusively within the court process. That is why South Australia has moved to the establishment of a Bail and Custody Analysis Committee. It will comprise two magistrates, two police representatives, two Correctional Services representatives, two Court Services representatives and one officer from the Attorney-General's Department. It will not only consider matters such as better ways of dealing with people leading an alcoholic lifestyle who may therefore not answer bail, but also try and generate accurate statistics of the problem.

Not long ago, the media reported that there were seventy prisoners remanded at the City Watch-house. I visited and checked. There were actually fourteen, twelve of whom had been refused bail, the other two failing to meet bail conditions that had been set. Accurate statistics with respect to the numbers of people who commit further offences while on bail are also needed. At the moment, the South Australian community, as well as judicial officers, are simply left in the dark about the true situation.