

Risk And Public Protection: reflections on technology and oratory

Bill Hebenton argues that contemporary practice in managing dangerous offenders is obscured by the magical rhetoric of risk assessment.

Minerva's Owl spreads her wings only at the gathering dusk', thus the philosopher Nietzsche reminds us that it is only at the end of things that we can truly begin to understand them; like lovers' relationships and probably social experience in general, in understanding them, we realise also that they are lost. What comes first, asks Nietzsche, the understanding or the losing? 'Risk' as both concept and technology for managing our dangerous sexual and violent offenders has still not come, yet, to the end of its period. It is, instead, the stated core business in our public protection arrangements (see the following for excellent discussions of the technical aspects of 'risk' and policy development in England and Wales - Grubin 1998; Kemshall 2001; McIvor et al 2001). It is not possible, I would suggest, to evaluate or even fully appreciate, except through a glass darkly, the range of its penal and

presented in hugely adorned, attractive receptacles encrusted with precious stones and rare metals. No expense was spared on these reliquaries, as they were known, since even the costliest of materials was not costly enough for godly matters. On reflection, what interesting parallels do I take away from this curious exhibition?

First, just as the symbolic significance of the reliquaries spoke to the medieval public audience of the privileged relationship to the divine, so also our risk assessment technical discourse and management practices are not only a way of 'doing things'; they importantly stand also as a kind of 'oratory' (Burke 1969). The silent machinery of 'Structured Anchored Clinical Judgement SACJ', RISK MATRIX 2000, 'multi-agency' partnerships and so on make available new vocabularies of motive and a new (yet contested) explanatory language with which to think about crime and human conduct, and

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social functions and the true nature of its institutional and social support. Nevertheless, in this brief article, I want to reflect upon some of these wider matters and revisit some earlier thoughts (Hebenton and Thomas 1998). To give my observations some shape, I have chosen to relate them through a biographical episode, which, with some serendipity, has curious and interesting parallels with our current collective fascination with risk assessment and management and its role in public protection.

In early 2001, on a research visit to colleagues at the University of Amsterdam, I visited an exhibition at the city's De Nieuwe Kerk (the New Church). Entitled 'The Way to Heaven', its theme was the significance of relics to the imagination and culture of the late Middle Ages. Relics – the remains of saints – were revered as objects of priceless value for many centuries. These holy remains combined spiritual power and could heal, protect and bring God nearer. And that was important, because in the Middle Ages, it was a good idea to have God as close by as possible. Since the objects themselves were often not much to look at – no more than a little bone from a revered Saint, for instance, or a splinter of wood from the Holy Cross – they were

indeed with which to hold criminal justice practitioners themselves to account. More empirical research is needed on how and in what ways 'risk' depicts social authority, individual subjects and their relationship to 'society' – the ways risk assessment and management point to society's sources of order and its sources of danger, to the principles which hold it together and those which threaten to pull it apart.

Second, the complex field of theological debate, problems, and conflicts which constituted the mediaeval church could be seen as having been built over by the physical presence of the reliquaries; and in this way, these problematic, fragile and unstable foundations disappeared from public view, and indeed from the gaze of the practitioners (priests) themselves. In their place was the immediately visible grand eloquence and craftsmanship of the dazzling receptacles. Similarly, for many of the modern poorly trained practitioners of risk assessment technology much of the foundational problems and conflicts are obscured (or at least barely understood):

- The intractable issue of 'accuracy' and the avoidance of either under-prediction or over-

prediction – with tolerance of ‘false positives’ and ‘false negatives’ ultimately a matter of moral and political acceptability

- The problem of transferring actuarial data about groups to prediction about individuals (sometimes known as the ‘statistical fallacy’)
- Complex outcome measures of offender risk prediction studies often simplistically categorised in attempts at meta-analysis of predictors
- The low base rate problem. The base rate is the known frequency of a behaviour in the general population. For behaviours with low base rates, such as very serious violent assault or sexual offending, predictions made without reference to the relevant base rate can be erroneous
- The cognitive ‘biases’ and inference limitations of clinical diagnosis

Third, the gap between rhetoric and reality. I have mentioned above the disparity between the ‘actual’ content – a small bone, a piece of matted hair – and the glorious outer shell of the reliquaries. When we contrast the grand theoretical claims made for risk assessment and management and its significance and role in changing crime control – talk of it bringing the demise of the modernist project and putting in its place the era of ‘risk penalty’ – empirical research in both England and Wales and the USA points instead to a messier picture where individual cases and professional judgment are pre-eminent; so the practice of risk assessment and management is being refracted through (often resistant) police and probation front-line cultural beliefs and practices and in the context of practical contingencies (such as severely restricted budgets).

Fourth, the appeal of ‘protection’ and its implications. Evident in the imagination of the audience of the Middle Ages was the self-justificatory need to draw God closer. This served as the prime rationale for both the public ceremonies and private devotions. Similarly, in our own ‘protection’ arrangements, for example multi-agency public protection panels, risk prevention justifications of information exchange and disclosure can be effectively unrestrained and unregulated. Whether the new statutory framework, only operational since April 2001 (*Criminal Justice and Court Services Act (2000)*), enhances practical accountability remains unclear. Given both the elastic nature of ‘public protection’ and associated risk-driven activities, and the fact that police and probation are limited by their own existing legal and policy frameworks then corporate accountability is likely to remain something of a chimera. There is every likelihood of continuing localised forms and practices.

The complex of beliefs associated with the relics of the Middle Ages proved not to be an eternal verity, but rather an historical compound, successfully concealing its own contingency and changes and transitoriness so that the story it told looked as if it could not be told otherwise, that things always were like that and always shall be (Warner 1995). The same, I guess, can be assumed for our contemporary efforts to manage dangerous offenders in our midst. I noted at the outset that ‘risk’ technology had not reached its practical and political end. Yet it will; and then the real reckoning can begin.

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