

An Attack on Profiling and Police Psychology?

A review of



Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age

by Bernard E. Harcourt

Chicago: The University of Chicago Press, 2007. 336 pp.

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Reviewed by

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Bernard Harcourt is a professor of law and director of the Center for Studies in Criminal Justice at the University of Chicago. There his scholarship is described as focusing on “issues of crime and punishment from an empirical and social theoretic perspective.” Further, his research is characterized as intersecting “criminal law and procedure, police and punishment practices, political and social theory, and criminology” (University of Chicago Law School, n.d. ¶ 1).

This book caught my attention because, as a psychologist, I have long perceived it to be part of my professional role to observe, describe, and, at least to some degree, predict behavior. Having worked for many years as a prison psychologist and administrator earlier in my career, I

am aware that the criminal justice system sees psychologists, as a group, as being professionally prepared to lend expertise in describing and predicting the behavior of those in its care. This volume, written by a faculty member at the University of Chicago Law School, clearly sets out to present arguments against engaging in such activities. I thought any such arguments might be worthy of examination and comment.

In this volume, the author puts forth his thesis, dividing his book into three parts. In the first part, consisting of a prologue and three chapters, he describes actuarial methods and the rise of the importance of these methods in the criminal justice arena. He then goes on to critique such methods in the second section of his book. In his third and final section, Harcourt proposes that the criminal justice system would be substantively improved if it were to cast aside actuarial and predictive methods altogether and to adopt randomization as the preferred approach to monitoring, preventing, and controlling criminal activities.

In the initial section of the book, Harcourt actually provides an interesting and valuable overview of how the adoption of actuarial and other predictive methods came into the criminal justice arena. At first, he actually sounds somewhat proud of how the "Burgess method" of parole prediction, developed by Ernest W. Burgess of the author's own University of Chicago, began to be used in the Illinois prison system during the 1920s and 1930s. With these ground-breaking developments, the field of actuarial prediction and the development of predictive instruments grew to become quite influential in the criminal justice arena. Initially these efforts took root in Illinois and Ohio and then, after adoption of these techniques by the federal government in the 1970s, proceeded to spread across the United States. Indeed, after some 100 pages of what appears to be a rather positive chronicling of the rise of actuarial methods in the criminal justice field, Harcourt describes the adoption of these methods as being "one of the most important trends in criminal law at the turn of the twenty-first century" (p. 107). Psychologists reading this book may note that the author gives considerable credit to such psychologists as Paul Meehl and John Monahan for their roles in demonstrating the value of actuarial approaches compared with clinical approaches for predicting behavior.

Also, related to the historical developments that he summarizes in

the first third of his book, Harcourt provides an additional 15-page appendix (Appendix A) at the end of his work, providing the reader with a helpful synopsis overview of the literature concerning parole prediction from 1918 through 2002.

Having presented this rather substantive, albeit brief, history of the actuarial approach, the author then proceeds to attack it. He points out that criticism of the actuarial approach began to arise in the 1990s with arguments questioning the value of concentrating attention on individuals as opposed to groups. Harcourt, however, prefers to marshal his attack by modeling the actuarial approach, and, in his words, confronting the tools, methods, and instruments of the process of aggregation.

In his attack, Harcourt invokes the economic principles of "elasticity" and "ratcheting." With the former, he uses methods that he describes as a bit "technical and mathematical" in arriving at his admittedly counterintuitive conclusions. These conclusions include his suggesting the possibility that using scientific methods to predict future behavior and taking action to restrict the activities of likely offenders may actually increase overall crime.

His arguments leading to this conclusion are festooned with various equations and mathematical symbols, which do lend a certain aura of quantitative respectability to his line of reasoning. But the essence of his elasticity argument appears to be that the likelihood of a person's committing a crime is primarily a function of the likelihood of his or her getting caught. The bottom line, according to Harcourt, is that police resources should not be allocated proportionally to the amount of crime occurring in any given area or being committed by any given group because, by his reasoning, the area or group that receives less policing will necessarily experience a resulting increase in its crime rate. By extension, he seems to be suggesting that high-crime inner-city areas should have no more policing per capita than the very low-crime areas in the suburbs. In other words, allocation of police resources should be essentially random.

Harcourt devotes the entire fifth chapter to explaining his "ratchet effect." The essence of this effect is his claim that police tend to use the proportion of those who are incarcerated to determine allocation of their

policing resources. His reasoning is essentially that if Whites commit 50 percent of the crimes and they are 70 percent of the population, whereas minorities commit 50 percent of the crimes and they are 30 percent of the population, police resources will be allocated proportionally to what Harcourt refers to as the "carceral" rate. In doing so, Whites will be subjected to less policing, per capita, than will minorities. Because of this relatively increased policing of minorities, members of this latter group will subsequently be arrested at an even greater rate, thus "ratcheting" up the carceral rate for minorities. Harcourt argues that allocating police resources based on the ratios of groups incarcerated (ratcheting) is inherently unfair to the group or groups that have the higher offending rates.

Although the ratcheting argument may make some theoretical sense, Harcourt fails to present adequate evidence that allocation of police resources is, in fact, based primarily on carceral rates as opposed to arrest rates, convictions, or any of the other measures of likelihood of offending. So the reader may have a little difficulty appreciating the practical effect of his ratchet effect.

The type of detached creative theorizing that is used by Harcourt with his use of elasticity and ratcheting continues in ensuing chapters, eventually leading in Chapter 8 to his arguing against inspectors' devoting more observation to young Muslim men during airport screening and eventually arguing that all policing activities should be on a totally random basis. Indeed, his ninth and final chapter is titled "The Virtue of Randomization."

In addition to the difficulty I found accepting Harcourt's creative reasoning, I did find one other aspect of his volume a little unsettling. In his attacks on current criminal justice practices, he repeatedly raises the of "police bigotry and racism." Indeed, he uses these terms so often that they become a virtual mantra. Some readers might find this portrayal of police officers to be a bit insulting to the great majority of dedicated police officials who devote their lives to providing the rest of us with protection in a country where the crime rate continues to be one of the highest in the industrial world.

In summary, although I found the tone of Harcourt's *Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age* to be

quite scholarly, erudite, and innovative, his thesis pushes the envelope beyond that which is practical, or even responsible, in the real world.

Nevertheless, although I am obviously hopeful that our government does not take the recommendations in this volume seriously enough to actually implement them, I must admit that I find reading about them to be an interesting intellectual adventure.

Reference

University of Chicago Law School. (n.d.). *Bernard Harcourt*. Retrieved May 14, 2007, from <http://www.law.uchicago.edu/faculty/harcourt/>

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