



Book Reviews: Three Recent Works on Profiling

Harcourt, Bernard E. (2007) *Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age*. Chicago: University of Chicago Press.

264 pp. Paperback \$25 (US), £16.00 (UK), €21.50 (Eur), \$27.09 (Can). ISBN-10: 0226316149, ISBN-13: 978-0226316147. Also available in Hardcover: ISBN-10: 0226316130, ISBN-13: 978-0226316130.

Kevin Stenson¹

Harcourt welds normative and analytic arguments about risk and actuarial approaches to policing and criminal justice in a novel and readable fashion. This deserves a wide hearing among scholars and students interested in risk, actuarial logic and new modes of governance through crime control. Let us start with the normative argument. Focusing rather too parochially on US research (a besetting problem throughout the book), he argues that policing and criminal justice in a democracy should operate with the principle of randomisation. This is ... “The effort to eliminate the unintended consequences and perverse effects of employing actuarial methods in the criminal law by (i) using random sampling in police practice and (ii) eliminating the use of predictions of future dangerousness in post conviction processes, including sentencing, prison classification, parole, and other punishments” (239). Only by using this principle will we create a carceral population that accurately reflects that offending population. Moreover, “random sampling is the central virtue behind randomisation ... it neutralises the perverse effects of prediction, both in terms of the possible effects of overall crime and of the other social costs” (238). Only thus can “similarly situated individuals ... have the same likelihood of being apprehended when they offend *regardless of race, ethnicity, gender, or class*” (5).

In the sphere of policing the meaning is straightforward. “The IRS could assign a number to each tax return and audit on a lottery basis – or ... randomly select based on social security numbers. At the airport, the security details could search all passengers or employ a randomised program to select passengers to search.” “On the highway, the state patrol could deploy random numerical ordering to seek consent to search cars” “random sampling is the only way that the police would obtain an accurate reflection of the offending population...one idea would be to draw social security numbers by lottery and then have a full investigation of the person’s life – audit their taxes, take a hair and a urine sample for drugs, clock their driving habits, determine whether they pay social security taxes on their housekeeper and so forth...the ultimate random criminal check” (238).

¹ Crime and Conflict Research Centre, Middlesex University, London. <mailto:K.Stenson@mdx.ac.uk>

In the sentencing sphere randomisation means “*eliminating the effect of predictions of future dangerousness*” (238). Although the thesis needs further development, Harcourt echoes the arguments of Andrew von Hirsch and others who, in critiquing the use of criminal justice dispositions for welfare and other goals, insist on our returning to Cesare Beccaria’s first principles of proportionality and justice. Hence, “we impose a sentence based ...on the harm associated with the offence, or proportionately to the degree of the conviction, *and then we stick by it*. We neither enhance nor decrease the punishment based on prediction of future dangerousness. We do not allow prediction to infect the decision-making process. Similarly, the prison authorities would classify inmates for security purposes according to the degree of the felony conviction” (238).

This normative argument is based on a critique of the alleged malign effects of the growing dominance of actuarial approaches to policing and criminal justice. This builds on the work of Simon, Feeley, and others in charting the growth of actuarialism as an approach to control risk. Harcourt enhances this literature with, for example, detailed analyses of the mathematics of actuarialism, the use and impact of risk assessment instruments for sex offenders, the way that notions of justice have been swamped by attempts to predict future risks and harms presented by known offenders, and a case study of racial profiling.

All forms of police and criminal justice reasoning are inevitably probabilistic to a degree, but they do not all “rely on statistical correlations between a group trait and that group’s criminal offending rate” (18). Hence, by actuarial Harcourt means “The use of statistical rather than clinical methods on large datasets to determine different levels of criminal offending associated with one or more group traits, in order (i) to predict past, present or future criminal behaviour and (ii) to administer a criminal justice outcome” (1). It is wrong to see clinical, or case study based, assessments as any less discriminatory. They rely on subjective expert opinion by police, probation and other agents who assess individual offenders or potential offenders in the light of the experience accumulated by the professional agent or his/her professional community. This can also be a cloak for the selective focus on some sections of the population, especially minorities and low-income groups (17). Using these forms of profiling, as the impact of actuarialism intensifies, means that the profiled populations, especially African American and Hispanics in the USA, make up a progressively larger proportion of the carceral population. And if self-report studies are to be trusted as proving a baseline, this over-representation becomes increasingly out of kilter with the proportions of offenders in the various racial and ethnic groups. Harcourt claims this has disastrous social costs on these population groups. “This, in turn aggravates and compounds the difficulties that many profiled individuals have in obtaining employment, pursuing educational opportunities, or simply leading normal lives” (3). In turn this reduces the life chances of the profiled populations, diminishes their trust in the law and its officers, and amplifies their offending.

Refreshing though this thesis is, there are a number of problems with the argument. I will indicate a few. There is a political naivety about the call for randomisation. Major middle class constituencies would resist such a move at much political cost to the politicians who proposed it. Secondly, the argument relies too much on self report survey data as providing a baseline for comparison of “real” levels of offending. Such data are less reliable when reporting more serious

offences, such as violent offences and drug dealing rather than drug possession for use. Thirdly, in the USA as in the UK, analysis of racial variations of real offending by self report and by police statistics relies too much on crude comparisons by race, without fully controlling for social class. Like is not being compared with like. As my colleagues and I found in a study of racial disproportionality in police stop and search in two English cities the choice of denominators for comparison makes a vital difference (Waddington *et al.*, 2004). Fourthly, Harcourt needs to pay more attention to ethnographies of poor areas, including the work of William Julius Wilson, Elliott Currie, Jock Young, John Lea and the Middlesex University “Left Realist school,” amongst others, in examining the causes of crime and illegal economies in economic and cultural change: deindustrialisation, family and community breakdown and so on. While the discriminatory and deviancy amplifying effects of profiling need to be recognised, they are but part of a much larger picture in explaining differential involvement in illegal economies and offending.

Reference

Waddington, P.A.J., K. Stenson and D. Don (2004) ‘In Proportion: Race, and Police Stop and Search,’ *British Journal of Criminology* 44(6): 889-914.

Tator, C. and Henry, F. (2006) *Racial Profiling in Canada: Challenging the Myth of “A Few Bad Apples.”* Toronto: University of Toronto Press.

304 pp. Paperback \$35 (Can), \$35 (US), £22.50 (UK), €30.13 (Europe). ISBN-10: 0802086667, ISBN-13: 978-0802086662 (paper). Also available in Hardcover: ISBN-10: 0802087140 ISBN-13: 978-0802087140.

Colin Webster²

In providing accounts of the meaning of racial profiling in Canada, and some comparisons with the United States and the United Kingdom, this book aims to bust some myths about the how the police and other public institutions go about their business. In particular, how powerful social institutions communicate and produce ideas about race and inequality through their common interactions. Theoretically, profiling is a form of pre-emptive policing which seeks first to create suspect individuals and populations that may or may not later be discovered to have committed a crime. Suspect individuals and groups are often Black or belong to other minority populations who, it is argued, are treated differently by the police compared to white groups. Practically, the most obvious and immediate manifestation of racial profiling is “Driving While Black” – the practice of stopping vehicles and harassing their Black occupants on flimsy pretexts or non-existent grounds.

² Colin Webster, Leeds Metropolitan University, <mailto:c.webster@leedsmet.ac.uk>

Dr. Colin Webster is Reader in Criminology at Leeds Metropolitan University. He has researched and published widely in the areas of race, ethnicity and crime, racist violence, youth transitions and social exclusion, criminal careers and drug treatment. His most recent publication is *Understanding Race and Crime* (Open University Press, 2007).

The book takes a discursive approach – focusing on what is written, said and done about race and crime “events” in different contexts to generate and reproduce dominant white beliefs, values and actions towards racialised groups. Quite a lot of the book therefore focuses on media-induced as well as police-based representations of, and reactions and responses to, race and racial profiling, particularly how these deflect attention away from the general issue of police racism and the specific issue of racial profiling of Blacks.

The authors argue that racial profiling is a manifestation of “democratic racism” defined as a liberal ideology that attempts to reconcile the conflict between justice / equal treatment and racism in ways that cover up that racism exists. Racial profiling is not meant to convey police activity alone but the activities of a wide range of public authorities. Racial profiling is a particular aspect of a broader activity of racialisation that categorises and excludes people and their social relations as inferior explained in terms of their cultural and biological characteristics, and aims to preserve white power and privilege.

There is little to disagree with in the book’s opening theoretical introduction and chapter about how we might understand racism in liberal societies and what purchase this understanding may have in interpreting the prevalence of racial profiling outlined in later parts of the book. Key to the book’s thrust however is challenging the myth that police racism occurs because of the individual racist beliefs and actions of some police officers as they go about their business – the “few bad apples” thesis – that implies that the solution lies in training police officers in race relations and cultural sensitivity, a strategy long-established to have failed in eradicating police racism. This approach denies “a set of institutional practices and patterned cultural behaviours that collectively support and reinforce racially different systemic outcomes” (17). Black stops have to be understood in the context of widespread beliefs that Blacks commit more crimes than whites while generally ignoring *white* crime and the social construction of white identity as both invisible and dominant. “Blackness” in contrast connotes negative masculinity and visible “danger.”

Some quite complex theoretical themes about racism and contemporary society laid down early in the book are brought to life in chapter two which discusses racism found in an interlocking web of Canadian institutions, systems and structures. The thesis of institutional and systemic racism in Canadian society is illustrated through a careful consideration of the law, immigration control, the criminal justice system, education and the media all of which frame discussion of race and crime. This provides a backdrop to much of the subsequent discussion of racial profiling and its endemic prevalence in Canada and other jurisdictions.

Chapter 4 describes and analyses police culture and is a good review of the theoretical literature applied to the Canadian and Toronto police. Criminal profiling as a recent regular practice in policing, as well as a component of training, is said to encourage stereotypical thinking about particular racial and cultural groups, and perpetuates this key aspect of police occupational culture. Chapter 5 returns to theoretical approaches for understanding competing discourses on race and racism to good effect and Chapter 6 explores the strategies employed by liberal societies like Canada to deny and deflect the existence of racism. For example, the authors point to the “discourse of reverse discrimination” whereby the perpetrators of racism are portrayed as the innocent victims of a new form of oppression and exclusion – that minority groups are engaging in

reverse discrimination towards the police who it is said themselves become objects of prejudice and discrimination, and this disparages and undermines their work. Chapter 7 introduces qualitative data of the stories and experiences of African Canadians of police profiling and this compliments the other chapters on prevalence and media, police and other representations and discourses. The final chapter explores possibilities of change in police policy.

This is essentially a critical theoretical book about racism, crime, police processes and policies, and justice in Canada and uses the substantive issue of racial profiling as exemplary or illustrative of these theoretical themes and concerns. In this sense its scope and ambition is considerably wider than a discussion of racial profiling in the narrower empirical sense. This is to be welcomed as it fills a gap in general theoretical discussion of race, crime and justice and a gap in knowledge about race, crime and justice in Canada. It both theoretically widens debates often presented in fairly narrowly empirical terms of racial disproportionality and discrimination in police and justice processes, and adds to our knowledge of race, crime and justice in Canada in a field dominated by American, British and Australian research.

Despite being somewhat repetitive in places and occasionally leaving the reader wondering about the organisational structure of the book that interweaves theory with substantive material, this ambitious and well executed book is highly recommended as combining a review of critical theories of racism and society and insight into how systemic racism continues to operate in liberal societies that disclaim that this is happening.

Turow, Joseph (2006) *Niche Envy: Marketing Discrimination in the Digital Age*. Cambridge, MA: MIT Press.

225 pp. Hardcover \$27.95 (US), £18.95 (UK), €30.50 (Europe), \$30.29 (Can). ISBN-10: 0262201658, ISBN-13: 978-0262201650.

Kelly Gates³

Most internet users by now are familiar with those strange online encounters that give them a vague sense of being watched. The banner ads that appear when I use hotmail, for example, often suspiciously relate to my recent online queries. The prompt email response I receive from Amazon when I have a problem with an order diverges noticeably from the interactions I have with other commercial websites where I spend less money. And how do both Target and Overstock.com seem to know when I'm in the market for bed sheets? Whether in fact any particular advertising appeal or customer service encounter is the result of something as simple as cookies or more sophisticated consumer surveillance and targeting techniques is hard to know. Sometimes I suspect that I'm just being paranoid.

Consumer paranoia is part of the problem that Joseph Turow examines in his latest book, *Niche*

³ Kelly Gates is an Assistant Professor in the Department of Media Studies at Queens College, CUNY. <mailto:kelly.gates@qc.cuny.edu>

Envy: Marketing Discrimination in the Digital Age. Building on his previous book, *Breaking Up America*, about the fragmentation of American society at the hands of target-marketers, Turow has provided a valuable update on the evolving practices of consumer surveillance. What features centrally in *Niche Envy* is “the movement of databases to the heart of marketing communication” (1), along with the rise of an even more targeted and socially destructive approach to defining, classifying, and persuading consumers. While it is commonly known that marketers have enlisted information technologies to tailor commercial messages to specific audiences, what is less understood is the full extent of this transformation. The emerging, orchestrated strategies for “consumer-relationship management” (CRM) give preferential treatment to a very select group of valuable customers, while treating the rest like dirt. The lowly forms of direct marketing that were shunned by advertising’s high-art modernists have ascended to the center of the ad business. The new tactics of meticulous targeting, focusing on individuals to the extreme, are leading down a dark path to a culture of suspicion and envy. In this new climate, people willingly give up private information about themselves in order to receive special treatment and better offers on products and services. What is under assault in this process, according to Turow, is “the public’s right to a competitive, honest marketplace that is available to all comers, with open access to information about products” (4).

A major contribution of *Niche Envy* is the concise picture it provides of the emergence of database marketing. Chapters 2 and 3 provide the historical backdrop for the book, with Chapter 2 focusing on the development of advertising’s persuasive techniques beginning in the nineteenth century, and Chapter 3 examining the historical precedents for direct marketing and product placement. The diversification of products (read: branding), and the segmentation of consumers, occurred in tandem with technological transformations in media, especially in television. Cable, the remote control, the VCR, and most recently digital video recorders have given consumers more choices and more power to skip over ads. That advertisers are worried about the ad-averting power of new technologies is an understatement, as Turow explains. Their plan of counterattack has involved the twin tactics of placing commercial messages inside program content and directly addressing individuals with specially tailored appeals. Though there is nothing radically new about these practices, the 1990s saw their more widespread use, now empowered by databases full of transaction-generated information about consumers.

The best chapter of the book, “The Internet as a Test Bed,” provides a startling picture of the full extent of marketing surveillance on the Internet. Turow outlines how advertisers are using the new medium to prioritize consumers and customize messages, addressing everything from spam, cookies, and “opting in” versus “opting out,” to third-party advertising networks, inadequate and industry-friendly government regulations, and those convoluted and misleading website “privacy policies.” Using the internet as a “test bed” to develop techniques of mass customization has culminated in sites like My Yahoo, My Goodle, MySpace, and Facebook that enable users to design their own “space,” freely offering up a wealth of information about themselves that the websites in turn use to develop individualized marketing appeals. There is also evidence that other types of content, including *news*, is being tailored to individual preferences, a development that Turow rightfully sees as threatening to a democratic public sphere. Turow warns that television may increasingly move in this direction, as new interactive technologies are adapted to the medium and their costs come down.

Niche Envy will be most insightful for readers who are concerned about consumer surveillance but have little knowledge of what is transpiring in this area. It will also be useful for those current and future practitioners of database marketing who are interested enough to investigate the history of their field, and conscientious enough to consider its social and ethical implications. Policy makers may also find the book useful in their attempts to identify precisely what dimensions of database marketing need regulatory attention. I especially like Turow's policy suggestion that the Federal Trade Commission require websites to replace the words "Privacy Policy" with "Using Your Information" (p. 190), although his suggestion for consumer education curriculum requirements seems rather limited, and his third recommendation—requiring retailers to disclose how they use information—sounds all too familiar. Nevertheless, privacy-concerned policy makers and consumer rights activists will find much ammunition in *Niche Envy*. Also, members of the mainstream press would do well to take note of Turow's criticisms of their woefully inadequate coverage of these issues (in Chapter 7).

For scholars and other critics who already have some knowledge of consumer surveillance techniques, the book offers many useful examples and starting points for further research, but little by way of a novel framework for understanding or critiquing the developments that he painstakingly chronicles. Turow both overstates his case and does not take his critique far enough. By considering very recent trends as evidence of "a major transformation" in advertisers' differential treatment of consumers, Turow downplays the extent of discrimination that has historically defined the marketplace and US commercial culture at their core. Giving certain customers preferential treatment, while ignoring or actively discouraging others from offering their patronage, is hardly a new business practice, no matter how insidious its manifestations in the new media context. And noticeably missing from Turow's extensive study of marketing practices – beyond a passing reference to "the availability of cheap labor in other countries" (177) – is an acknowledgement of the deeply discriminatory global effects of US commodity consumption. Naomi Klein's (2002) trenchant critique of the obsession with brands at the expense of the developing world, for example, is *Niche Envy's* most glaring omission.

Turow places blame for the socially destructive consequences of intensified consumer surveillance and targeting techniques squarely on the nefarious marketing industry. This means that he does not consider the structural conditions of overproduction that have defined consumer capitalism and have required increasingly aggressive means to rationalize consumption (see: Robins and Webster, 1999). Turow also seems to have little interest in some important new work on interactive media and audience targeting techniques by scholars like Mark Andrejevic (2002), William Boddy (2004), and Lisa Parks (2004). Engaging with this work may have taken Turow beyond his concerns with fairness in pricing and equal access to information about products. Nevertheless, *Niche Envy* is a substantive and readable account of the current state of database marketing, and an excellent starting point for students and others concerned about what information the marketing machine is compiling about them, and how that data is being used to distribute them "in the domain of value and utility" (Foucault, 1978: 144).

References

Andrejevic, M. (2002) The Work of Being Watched: Interactive Media and the Exploitation of Self-

- Disclosure. *Critical Studies in Media Communication* 19(2): 230-248.
- Boddy, W. (2004) *New Media and Popular Imagination: Launching Radio, Television, and Digital Media in the United States*. Oxford, UK: Oxford University Press.
- Foucault, M. (1978) *The History of Sexuality: An Introduction, Volume 1*. (R. Hurley, Trans.). New York: Vintage Books.
- Klein, N. (2002) *No Logo: No Space, No Choice, No Jobs*. New York: Picador.
- Parks, L. (2004) Flexible Mircocasting: Gender, Generation, and Television-Internet Convergence. In Spigel, L. and J. Olsson (eds.). *Television After TV: Essays on a Medium in Transition*, 133-155. Durham, NC: Duke University Press.
- Robins, K. and F. Webster. (1999) *Times of the Technoculture: From the Information Society to the Virtual Life*. New York: Routledge.