

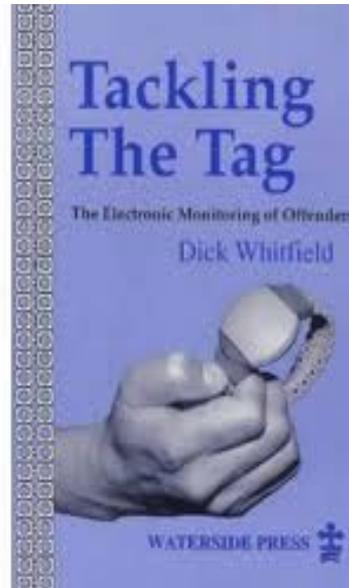
Electronic Monitoring - the Quest for the Gold Standard

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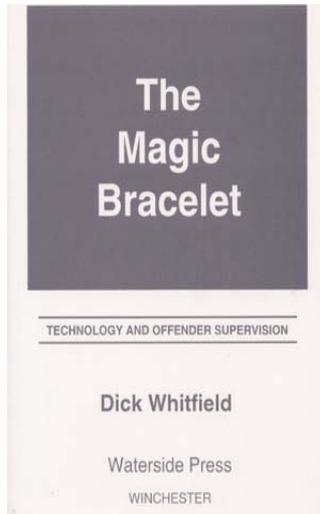


Dick Whitfield - CEP

.....and Ruud Boelens



- “I regard the Swedish scheme as a model for any jurisdiction developing electronic monitoring” (Dick Whitfield 2001:47)



QuickTime™ and a decompressor are needed to see this picture.



Winston Churchill 1910

Liberal Government - Home Secretary

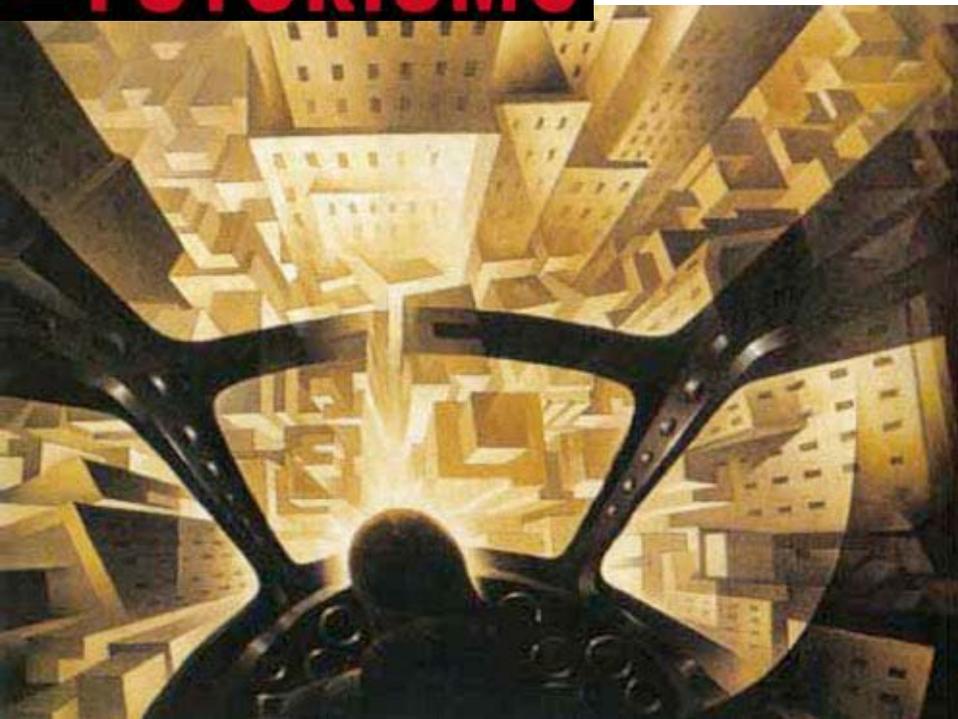
- “The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country. A calm and dispassionate recognition of the rights of the accused against the State, and even those of convicted criminals against the State, a constant heart searching by all charged with the duty of punishment, a desire and eagerness to rehabilitate in the world of industry all those who have paid their dues in the hard coinage of punishment, tireless efforts towards the discovery of curative and regenerating processes, and an unfaltering faith that there is a treasure, if you can only find it, in the heart of every man. These are the symbols which in the treatment of crime and criminals mark and measure the stored-up strength of a nation and are the sign and proof of the living virtue in it”.

Problems and Lessons

- Not wrong as such ... but the exclusive focus on the offender echoes the 18thC Christian pioneers of rehabilitation
- Rehabilitation is a vital principle in CJS, but not one above all others; justice, and victim and public protection matter too
- No reference to the needs, rights and interests of victims, or restorative justice
- Lesson? - perceptions of penal ideals (gold standards of practice) change - for good or ill.

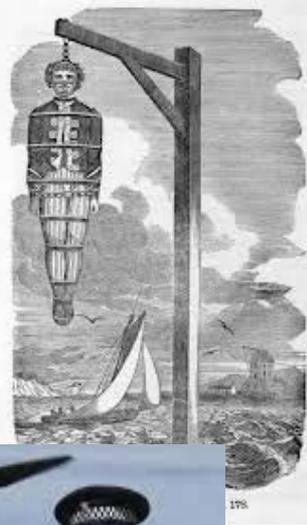
Futurism 1910

technology as transformative power



- **Technologies** as hope, danger & convenience
- Utopian and dystopian inflections on aircraft, radio & the internet etc
- Enhancement vs repression?
- The need for ethical constraint
- Fear that technological change outstrips moral and legal thinking

“Technocorrections”



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European Conversations

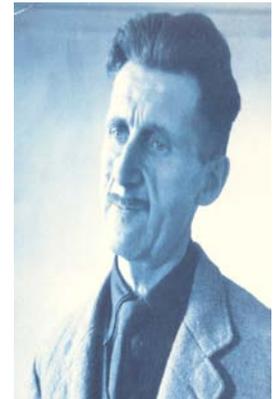
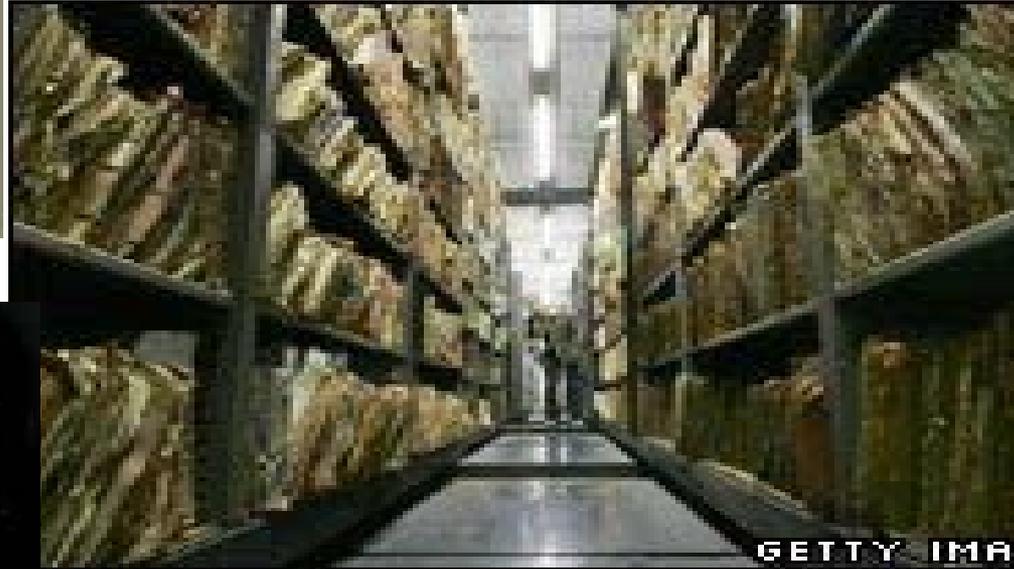
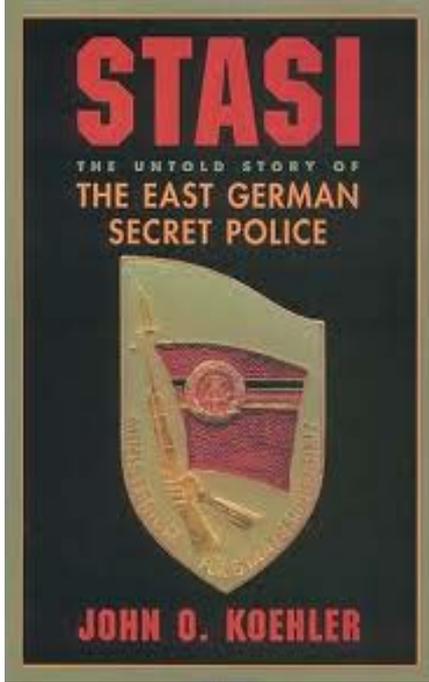
(informed, democratic deliberation)

- Internal national debate
- International sharing and learning
 - Transnational “regulation”
- CEP EM conferences
 - Council of Europe Rules on ...
Community Sanctions & Measures
Standard Minimum Treatment of Prisoners

European Rules on Community Sanctions and Measures

- 58. When electronic monitoring is used as part of supervision, it shall be combined with interventions designed to bring about rehabilitation and to support desistance.
- 59. The level of technological surveillance shall not be greater than is required in an individual case, taking into consideration the seriousness of the offence committed and the risks posed to community safety (ER CSM 2010).

The worst can come to the worst. Stasimuseum, Berlin



EM as Penal Informatics

- EM - no longer a single technology - RF, GPS, Voice, RAM - variable regimes ...
 - In variable legal contexts (bail, sentence, post-release)
 - EM is automated data processing which makes offender (locations) “telepresent”
 - Makes location and movement the basis of intermittent or sustained control.
 - Digitised information aids compliance checking (in simple and complex ways)
 - Creates the potential for “economies of presence”, balance of face-to-face & virtual

Possible Starting Points

- What spheres of life do we want technology in and why? eg domestic violence?
- What spheres of life do we want **surveillance** technology in and why?
- What kind of technology?
- How much technology?
- The answer to these questions cannot be decided on cost-efficiency grounds alone can it? (Managerialists will disagree)

The Moral Case Against Prison

- “You cannot teach men to use freedom in conditions of captivity” Thomas Mott Osborne, US prison governor.
- If democracies truly value individual liberty its full removal should always be a last resort
- Its high cost detracts from investment & expenditure on better social measures.
- Prison building programmes can be “a sin against the future” (Vivian Stern, PRI).
- If EM helps to reduce prison use - GOOD?

EM - more than “a lesser evil”?

- Can EM be “a positive good”? It has to be to earn a gold standard.
- EM adds a level of control over offenders that other community sanctions and measures can't do (and crime disproportionately affects the already disadvantaged).
- Control improves public safety and increases public legitimacy of community measures?
- Control aids rehabilitation and desistance?
- Tentative research consensus: EM does suppress crime while on it, but can't improve longer term offender behaviour on its own.

Getting Closer to the Gold Standard

- BUT - how much control is enough, in what context? Some forms of control can be counter-productive with offenders, can't they?
- Different EM technologies can be used to create very variable intensities of control - there is no single "index of punitiveness" for EM - that is why it is so versatile.
- Daily monitoring hours + length of orders + other measures + rigour of breach decisions

EM as a Third Penal Way

Nuno Caiado - Journal of Offender Monitoring

- EM is not so distinctively innovative that it can (or should) transform everything,
- EM is not so mundane that it should merely supplement the existing repertoire of penalties and measures.
- EM should and could reduce control deficits in community supervision to enhance what we already do, in order to better reduce the use of prison.

Stand-Alone EM-Curfews

- Defensibleat pre-trial stage if it reduces use of remand in custody: there is no mandate to change the behaviour of untried and unconvicted people.
- ... and as ... low intensity penalty for low tariff offenders as an alternative to a fine in times of austerity. Just a punishment, not an aid to anything else. Not cost-effective, but possibly ethical?



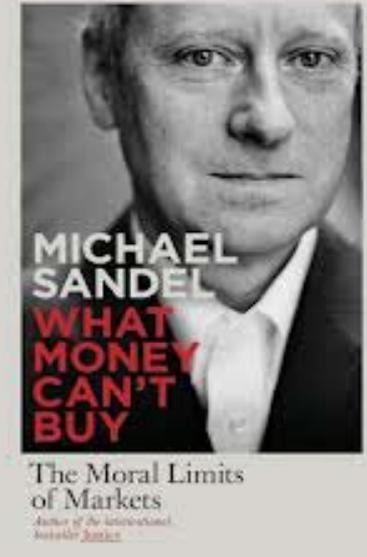
Research on EM

- Renzema 2007 - we have not yet used EM to best effect so evaluations are of limited use.
- Have we asked the right questions?
- Mair 2005 - results ok, but not enough to justify scale of use of EM in England - it had other drivers apart from evidence.
- Results suggest EM is useful in several respects, but rarely spectacular.
- Gold standard? - not derivable from evaluative research alone.

Policy Decisions about EM will also be Influenced by

- Perceptions of the appropriate role of the private sector.
- Attitudes towards punishment.
- Attitudes towards (information and communication) technology ... and its role in “modernisation”.

EM & the Private Sector



- Private sector is an inevitable player in EM
- Public or (contracted) private service delivery - which is best?
- Michael Sandel - “the commercialisation effect”.
- There will always be commercial incentives to expand EM, to create markets, to persuade governments, to claim superiority of innovative new methods over existing practices ... listen & argue!
- Best practice in CJS should never be shaped by commercial ideals and market models of service delivery - No country needs to heed this more than England & Wales, .. but probably won't.

Attitudes towards Punishment

- A punitive mindset leads EITHER to punitive forms of EM and increased hours of monitoring making it harder to integrate with other measures....?
- OR claiming EM is “soft”.
- Avoid thinking of EM as something which merely mimics imprisonment (virtual prison, community custody, prison without bars; home detention)
- Have confidence in probation, community service & restorative justice (humanistic measures)



Attitudes Towards Technology

- The more normalised action in “real-time” becomes the more ordinary EM will seem.
- Public attitudes towards “locational privacy” have softened - it is convenient to be pinpointed (for mobile phone calls).
- Advertisements make smart ICT cool - is EM cool, by association.
- Technology can be fatally cost-efficient compared to some skilled people.
- Avoiding techno-utopianism and the lure of the new can be difficult for modernisers



Normalising action in real-time ...and pinpointing on the move



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Towards the Gold Standard ..

- The gold standard of EM use(s) will not, cannot - be found in technology alone, but in the broader and deeper set of values and practices which inform and express our understanding of why people offend and what it takes to punish, control, reform and reintegrate them in a civilised way. EM will only be used wisely and well in countries which utilise to the full the strengths of humanistic measures and use EM to remedy their limitations rather than displacing them.

The Gold Standard for EM is ..

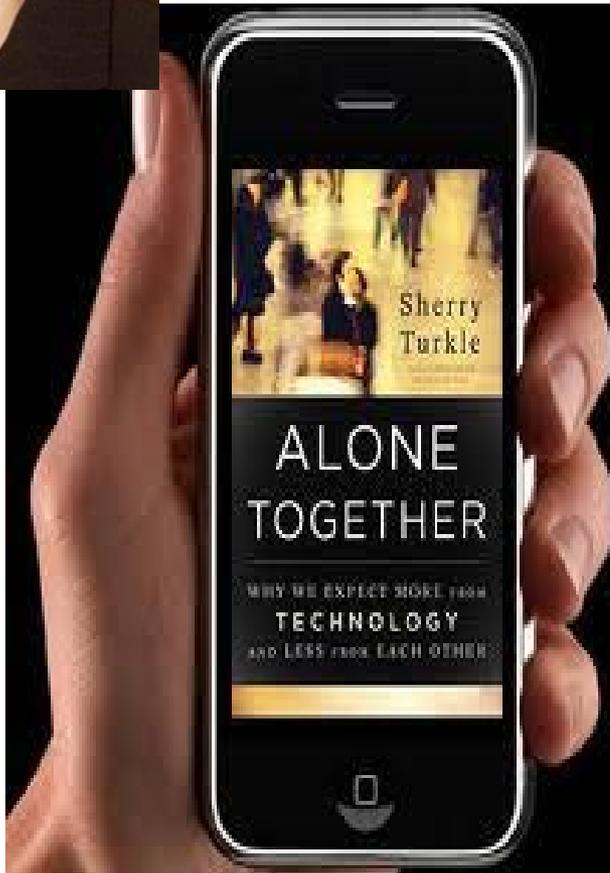
- modestly recognising that EM can, if necessary, add in a constructive element of control to existing forms of supervising offenders in the community, and help to reduce systemic reliance on the use of custodial sentences. The practical means to enable desistance and the moral & political commitment to reducing both crime and prison use must come from a vital sense of social solidarity and a recognition that offenders are people, Where that sense fails or falters EM technology will be expected to accomplish more than it can reasonably achieve and will be put to misguided use.

The Gold Standard and some axioms of good practice

- Compliance checking is what EM does best, but is not the endpoint of offender supervision. Personal change is - maintain opportunities for it.
- GPS tracking warrants a place but is not inherently superior to RF EM, the upgrade that delivers the real promise of EM. Use both, separately.
- Relational, people-centred (humanistic) interventions are not redundant (but skills can be denigrated and lost). They work. Invest in them. Add EM sometimes, but not always.



Sherry Turkle - MIT



- Writing about social media and robots, not EM
- Enhancement or Displacement of sociability?
- “Why we expect more from technology and less from each other”
- If we do not heed that EM will be its own “sin against the future”

The End - Thank You

- All the issues I've raised - and more - will be explored in other presentations and workshops, and by the end the nature of the Gold Standard in EM will hopefully be clearer still. Enjoy!
- I'd like to say that none of this is rocket science, but of course some of it is!

