

Psychiatric Risk Assessment of Dangerous Sexual Offending: A Qualitative Analysis

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Review of the Literature - Legislation

- ▶ Mid-Twentieth Century - a shift towards risk-averse societies.
 - ▶ The rise of human rights (McSherry, 2014).
 - ▶ The “Culture of Fear” (Füredi, 2006).
 - ▶ *The Precautionary Principle*
- ▶ Current legislation - *Actuarial Justice model*
 - ▶ Europe
 - ▶ United Kingdom
 - ▶ United States
 - ▶ Australia
 - ▶ Criticisms

Assessment of Risk Factors

- ▶ 1st to 4th Generation Assessments (Andrews & Bonta, 2010)
 1. Unstructured Clinical Judgment
 - ▶ Long-term forecasts no more accurate than chance.
 - ▶ Short-term accuracy, and accuracy in assessing severity/imminence.
 2. Actuarial Measures
 - ▶ Empirically based, with mechanistic means of scoring.
 - ▶ Somewhat more accurate.
 - ▶ Most only assess historical factors.
 - ▶ Data tells us about groups and not individuals (McSherry, 2014; McSherry & Keyzer, 2009; Mills, Kroner, & Morgan, 2011).
 - ▶ Several items/scores require clinical judgement (Litwack, 2001).
 3. Risk/Need Scales
 - ▶ Incorporate dynamic (treatment) factors.
 - ▶ Less 'mechanistic' than 2nd generational instruments.
 - ▶ Predictive accuracy between 1st and 2nd generation assessments (Andrews & Bonta, 2010).
 4. Case Management
 - ▶ Link between risk/needs assessments and case management.

Risk - Considerations

- ▶ Limited research on dangerous sex offenders in Australia (in particular, DPSOA offenders).
- ▶ What makes an offender dangerous?
 - ▶ Risk is considered complex (multifactorial model) (Rowlands, Palk, & Young, 2018).
 - ▶ And are they truly dangerous?
- ▶ How is risk conceptualised in the Supreme Court?
 - ▶ What is salient when clinicians (psychiatrists & psychologists) consider someone being a risk?

Hypothesis

- ▶ Qualitative analysis of interviews with forensic clinicians (Australia-wide) will provide rich information on decision-making processes during the risk conceptualisation.

Methodology

- ▶ *Qualitative Analysis of Clinical Decision-Making.*
 - ▶ *Participants*
 - ▶ 12 clinicians (nation-wide) with at least 5 years (range: 5-30 years) experience reporting to Supreme Courts during dangerous or serious sex offender hearings.
 - ▶ *Procedure*
 - ▶ Each participant were asked to read two (brief) fictional case studies on an offender that has been recommended for placement on a supervision/detention order.
 - ▶ Semi-structured interview (16 questions) to elicit discussion on risk and how each clinician conceptualises it, and issues/limitations associated with the process.
 - ▶ The interviews lasted on average 65 minutes, providing approximately 86,000 words (13.5 hours) of transcribed data.
 - ▶ *Data Analysis (Grounded Theory)*
 - ▶ *Consensual Qualitative Research* (Hill et al., 1997).
 - ▶ Interviews transcribed and then reviewed multiple times, to develop an understanding of the data and to extract themes/key quotes.
 - ▶ Saturation of themes/domains occurred after reviewing 8 transcripts.

Results - Thematic domains

- ▶ Thematic analysis revealed 8 Domains and 26 sub-domains:
 - ▶ **Perceptions of Risk**
 - ▶ Factors that Concern; Critical Factors; and Salient Factors
 - ▶ **Factors that Mitigate Risk**
 - ▶ Improving the Lives of Offenders; Lowering Likelihood of Risk; and Affecting Attitudes
 - ▶ **Clinical Management**
 - ▶ Intervention Programs; Therapy; and Pharmacological
 - ▶ **Systemic Barriers**
 - ▶ Monitoring of Offenders; Monitoring and Restricting Substance Misuse; Proximal Considerations; and Length of Supervision
 - ▶ **Ethical Considerations**
 - ▶ Legal Issues; Practitioner Ethics; Marginalised Persons; and Reporting Issues
 - ▶ **Limitations of Risk and Judicial/Correctional Processes**
 - ▶ Information Limitations; Clinical Role Limitations; Limitations of Corrective Services/Parole; Judicial Limitations; Legislative Issues; Limitations of Psychometric Measures; and Limits of Prediction
 - ▶ **Definition of Dangerousness**
 - ▶ Severity of Harm; Judicial Framework; and Probability of Offending
 - ▶ **Unifying Model**
 - ▶ Conditions of Risk; and Dimensional Approach to Risk

Domains and Key Quotes

- ▶ *Perceptions of Risk*
 - ▶ Factors that Concern
 - ▶ “. . . he’s got a high level of psychopathy so that’s a worry because he’s quite disinhibited and probably . . . to some extent to do what he did and then like I said to me the real controversial bit is the sexual sadism . . . so I’d look at that very carefully.”
 - ▶ Critical Factors
 - ▶ “So I look for big red flag items. Sort of just things that are completely uncontrolled and pose a significant risk.”
 - ▶ Salient Factors
 - ▶ “. . .so I always step back and you know from the literature just looking at what are the risks factors the two things that stand out are generally sexual deviance . . . and then the general anti-sociality so how willing is the person to break the law, to break rules to follow their sexual desire.”

Domains and Key Quotes

► *Factors that Mitigate Risk*

- Improving the Lives of Offenders
 - “And that environment acts as a buffer around them to protect, I think. To some extent. Not always, obviously, plenty of bad things go on in church groups. But I’ve seen that sort of environment act as a protective environment.”
- Lowering the Likelihood of Risk
 - “. . . Those factors that might lessen the risk . . . Not meaning in absence of risk factors, which is what some of my colleagues internationally believe protective factors are. I’m meaning a group of factors that by themselves seem to have some validity and in lowering or raising the risk depending on whether they’re present or absent.”
- Affecting Attitudes
 - “Proper attitudes that are shown in his behaviours to other people . . . So I’d be looking at how he’s adapted, how adaptive he’s become, how coping he’s become, how adult in his attitudes he’s become.”

Domains and Key Quotes

► *Clinical Management*

- Intervention Programs
 - “Unless you can find something which has moved that person to a different trajectory, it’s most likely that pattern will continue . . . Or therapeutic intervention which has helped the person change their behavioural trajectory.”
- Therapy
 - “Hopefully the psychologist would form some kind of therapeutic alliance. Monitor his sex drive, and whether the guy places himself in danger. And again that may relate to whether the guy wants to address his offending behaviour. That’s always difficult to tell, even when they have successfully completed programs.”
- Pharmacological
 - “. . . is it he able to control that with psychological methods, if he is prepared to take medications to assist in controlling that. If the rest of his life has become more, it looks like the paraphilia become a central organising principle at the time of his offending - that’s all he is doing; he set up a shop to attract children . . .”

Domains and Key Quotes

▶ Systemic Barriers

▶ Monitoring of Offenders

- ▶ “. . . but if you set up conditions to be protective, you really need somebody by his side all day and all night . . .

▶ Monitoring and Restricting Substance Misuse

- ▶ “Sometimes if they have otherwise got no other major risk factors around you might say that they are suitable for release, provided they are subject to some conditions of a supervision order. The most important of which would be abstinence of alcohol and/or drugs.”

▶ Proximal Considerations

- ▶ “And this can be reduced to moderate or less under a supervision order. Which I think should last ten, not five years, because he is still relatively young sexually. And the sort of things I would look for are he should not associate with boys.”

▶ Length of Supervision

- ▶ “The supervisory conditions are very restrictive. If they have got through, say, five or ten years of those sort of restrictions and they have been away from substances for that length of time then I think it's probably safe to say that that risk factor has modified.”

Domains and Key Quotes

▶ Ethical Considerations

▶ Legal Issues

- ▶ “Although I do understand they haven't committed a future offence yet. So what's happening is their rights are being impacted by legislation that provides to protect the community without reference to the civil rights of the individual who I am writing a report on them. That's a very weighty thing to consider.”

▶ Practitioner Ethics

- ▶ “So I think that it is inevitable that the psychologists or the psychiatrists that are being cast in the position of making a judgement about somebody that ultimately, is used by the state to restrict that person's right . . .”

▶ Marginalised Persons

- ▶ “. . . an Aboriginal community . . . And the guy was almost like a prison in the community. He had a house, but he wasn't allowed to leave the house with another person . . . he was almost like in a prison within the remote community . . .”

▶ Reporting Issues

- ▶ “So I think that the role of the expert in his field is to advise the court and being well aware that the evidence that they give or the opinion that they give is weighty.”

Domains and Key Quotes

- ▶ *Limitations of Risk and Judicial/Correctional Processes*
 - ▶ Information Limitations
 - ▶ “. . . the only genuine evidence that the court has got is the risk assessment.”
 - ▶ Clinical Role Limitations
 - ▶ “Well the challenge is usually to explain clinical issues to the court, which usually doesn’t understand clinical issues, and the courts always play black and white and most of these assessments are grey, and trying to explain this to the court.”
 - ▶ Limitations of Corrective Services/Parole
 - ▶ “But I am sceptical about the value of those programs. I mean some people get a lot out of it, most people get comparatively little compared with, what would you call it, the stimuli, incentives and all the other stressors they face when they go out . . .”
 - ▶ Judicial Limitations
 - ▶ “It’s worrying when psychologist don’t keep up to date with the literature but I guess there’s no proviso for the judicial body or legal bodies to keep up to date with that literature.”
 - ▶ Legislative Issues
 - ▶ “Even if rehabilitation is provided and if you’re going to release them then you have to make sure that you’ve got high level of supervision which also costs money.”
 - ▶ Limitations of Psychometric Measures
 - ▶ “The actuarial type testing, you will have to bear in mind virtually all of it is based on a group of people followed up after x number of years afterwards . . .”
 - ▶ Limits of Prediction.
 - ▶ “. . . So really they, the court, really asks us to give an indication for how long the order should hold. That’s difficult, because we don’t have crystal balls.”

Domains and Key Quotes

- ▶ *Definition of Dangerousness*
 - ▶ *Severity of Harm*
 - ▶ “But how much risk is that individual actually posing? So you modify not just the level of risk, high, moderate, or low, but also the risk of what. Is it serious? Is it serious and is it likely to cause serious harm. So the consequences of the risk, the imminence of the risk, you know?”
 - ▶ *Judicial Framework*
 - ▶ “When I think about something like serious sex offenders then I will defer to the Sex Offender Act in whatever state I’m doing the assessment in because they do vary, so even in our state . . .”
 - ▶ *Probability of Offending*
 - ▶ “. . . that’s where you get the definition that there is a likely high probability that they are an unacceptable risk . . .”

Domains and Key Quotes

► Case Formulation (Unifying Model)

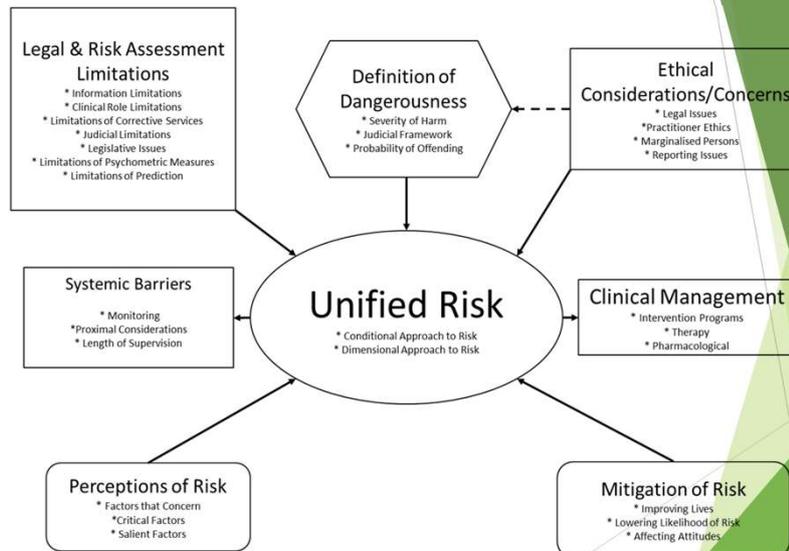
► Conditions of Risk

- “I would say something like this: Although the actuarial analysis suggests a moderate level of risk, of sexual re-offending, in my opinion the risk is high, and that is because he has an exclusive paraphilia towards adolescent boys.”

► Dimensional Approach to Risk

- “Well I think that comes with formulation, I suppose. You want to look at the internal factors, how much of those are fluctuating or addressed in certain ways. How much the environment is contributing. So, I guess they’re interacting all the time . . .”

The Unified Model of Dangerousness



Conclusion - A Theoretical Understanding

- ▶ Model *not* an exploration of *coherence* and *correspondence*.
- ▶ Overall risk could be conceptualised within the *Unified Domain (Case Formulation Model)*, by understanding the necessity of restrictions and interventions in containing risk.
 - ▶ Clinical decision informed by a variety of factors, including actuarial and third generational instruments (HCR-20 & SVR-20), but the *unified domain* implies semi-structured clinical judgement.
 - ▶ Conceptualisation of risk (and hence, dangerousness) is complex.
 - ▶ Risk may change circumstantially, which may require systemic limitations and clinical management.
 - ▶ Ethical issues and limitations of understanding need to be considered, given possible loss of liberty and double punishment.
 - ▶ Naïve intuitive statistician (Newell, 2013).

Limitations and Future Directions

- ▶ Limitations
 - ▶ Limited generalisability due to the high rate of clinicians declining to be interviewed.
 - ▶ Possible biased sample.
 - ▶ Receiver Operating Characteristic curves
 - ▶ Some factors (Ethical/Legal Concerns) not actually related to risk (more likely to be a consideration of Type I and II error rates).
 - ▶ Unified domain - 'cognitive black box'.
- ▶ Future research
 - ▶ Development of *5th generational* Risk Assessments
 - ▶ Bayesian modelling.
 - ▶ Incorporate the unified model, but need to have high sensitivity (temporal & ecological) to "capture" risk.
 - ▶ Panopticon concerns.
 - ▶ How to incorporate multiple actuarial/SCJ scales - an impossible task?

