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Mobility, control and technology in border areas : discretion and decision-making in the information age

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7. Objectivity and Accountability in Migration Control using Risk Assessment Tools⁷⁸

Chapter 4 and 6 discussed the presentation of information and information technology as tools for objective decision-making. Risk assessment technologies such as Amigo-boras are intended, among other things, to make the decision-making process of RNLM officers during MSM checks more objective. In this chapter we will investigate to what extent the concept as well as the practical application of Amigo-boras contributes to the objectivity of the decision-making process of RLNM officers. In reflecting on the results, we will discuss the related topic of accountability and why that is an important aspect of risk assessment technologies.

7.1 Risk assessment and migration control

Since abolishment of border control due to the Schengen Agreement, European countries have been facing a dilemma. On the one hand the open borders give the opportunity of free travel and trade resulting in great economic benefits. On the other hand open borders create risks regarding migration and crime. Not only tourists and transportation industry will be able to benefit from the lack of border control, but so will criminals and irregular migrants. Immigration is increasingly framed as a security issue as immigrants are presumed to bring risks of terrorism, cross-border crime and irregular immigration (Bosworth & Guild, 2008; Provine & Doty, 2011; Barker, 2012; Van der Woude, Van der Leun & Nijland 2014; Dekkers, Van der Woude & Van der Leun, 2016), a development also referred to as 'crimmigration' (Stumpf 2006, 2011; Van der Woude, Van der Leun and Nijland 2014). Schengen member states have thus been searching for ways to balance economic benefits and border security measures, trying to discern the bona fide travelers from the dangerous criminal immigrants (Aas, 2011; Koulisch, 2013). As the legal possibilities for physical border control using walls and border guards to tackle this issue are limited due to the Schengen

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Border Code, a solution to this issue is often sought in information technology. The EU has seen an upsurge in border technologies aimed at controlling migration and border mobilities (Broeders & Hampshire, 2013; Kenk et al, 2013) by differentiating between wanted and unwanted immigrants using actuarial and risk assessment methods (Haddal, 2010; Brunnet-Jaily, 2011; Harris, 2012; Rosenblum, 2012).

A country that has been receiving an increasing amount of attention in this regard is The Netherlands. Since August of 2012 the Royal Netherlands Marechaussee (RNLM), responsible for migration control in the Netherlands has been using a smart camera system called Amigo-boras. The system is used during migration checks called the Mobile Security Monitor (MSM), aimed at combatting irregular migration, identity fraud and human smuggling. Amigo-boras is used, amongst other things, to detect vehicles that carry a high risk related to those offences using automated risk profiling. Since the introduction of Amigo-boras other countries have been watching the system with great interest. Sweden, Denmark (Sveriges Radio, 2017), Belgium (NOS, 2016, 2017) and, according to sources within the RNLM, Germany have expressed interest in developing or are developing smart camera systems similar to Amigo-boras.

Such systems are not implemented without reason, of course. Research has indicated that policy-makers have much faith in technology to address complex social issues (Kemshall, 2003; Muller, 2004; Nye, 2004; Wilson & Weber, 2008; Meijer, 2011; Hayes & Vermeulen, 2012; Kearon, 2012; Broeders & Hampshire, 2013) and the wide array of border technologies shows that migration is not an exclusion. The development towards technology-assisted decision-making is often praised by policy-makers for its efficiency, effectiveness and – more importantly in the context of this chapter – for its alleged objectivity. It would have many benefits over traditional human decision-making by immigration officers. The technology and actuarial methods used to discern high-risk from low-risk individuals are viewed as objective. Computers do not have opinions and biases that humans are prone to have, would be able to pinpoint high risk individuals making migration controls effective, and, as fewer resources are wasted on checking low-risk individuals, increase the efficiency of migration controls.

The academic literature on decision-making does give reason to question how realistic the imagined scenario of technology assisted decision-making is. As Lipsky (2010) writes in his classic work on decision-making in public services, street-level bureaucrats are difficult to manage and value their ability to make discretionary decisions. Implementing information technology to (partially) replace their ability to make decisions as they see fit could therefore meet resistance. Empirical studies in

various disciplines and professional settings have shown that this can be the case (Schneider, Ervin, & Snyder-Joy, 1996; Lynch, 1998; Broadhurt et al, 2010; Fitzgibbon, Hamilton, & Richardson, 2010; Kemshall, 2011; Oleson et al, 2011). Of course, if the individuals who are supposed to use the information technology do not actually do so, this has implications for the objectivity of decisions and in extension the broader goals regarding migration and security for which the technology was introduced.

The above leads to the question *to what extent does the use of risk assessment tools such as Amigo-boras increase the objectivity of decisions that would otherwise be taken by street-level bureaucrats?* This question will be answered by using a case study of Amigo-boras. Observations, interviews and quantitative data will be used to see how Amigo-boras is used to make decisions during MSM checks. To further reflect on the results of the Amigo-boras case study, insights from other risk assessment technologies – in particular an American case study of a comparable system - will be used.

7.2 Discretion, human agency and technology

For a long time human input was seen as crucial factor for decision-making (Lipsky 2010). The real world can be complex and many situations need careful consideration and the weighing of possibilities by human beings as ‘the nature of service provision calls for human judgement that cannot be programmed and for which machines cannot substitute’ (Lipsky, 2010, pp. 161). Decision-makers therefore need to be able to exercise discretion to solve the issues without being completely bounded by rules, regulation and rigid protocols. Discretionary decision-making allows for the nuance and efficiency needed to solve the complex situations professionals face on a daily basis (Spader, 1984; Lipsky, 2010). Now that risk assessment technology is widely available, opponents fear that technology is taking the place of individual professionals in the decision-making process. In the words of Hannah-Moffat, Maurutto and Turnbull: ‘Risk technologies are often characterized as having supplanted much of practitioners’ discretionary decision making with structured, quantitatively derived decision-making templates’ (2009, pp. 391). The rigid procedures and formats that can come with the use of risk assessment technology possibly prohibit or limit human influence on the decision-making process (Buffat, 2015), comparable to Weber’s ‘iron cage’ analogy in the context of bureaucracy. The concept of the iron cage entails ‘an ever increasing focus on rationality, technical superiority, and efficiency [which] can imprison people in an iron cage of rationality’ (Maguire, 2014, pp. 70). The strive for rationality and efficiency within organizations would result in a plethora of rules and regulations, which would act as a cage for the individuals worker, restricting individual expression and the ability to influence

work-processes. The increased use of risk assessment tools could have a similar effect by replacing human decision making with automated decision making, which could result in what Bovens and Zouridis (2002) call a *system-level bureaucracy* where technology has the decisive power, disabling any form of human influence on the decision-making process.

Although the critics of risk assessment technology stress the need for discretionary decision-making, one should keep in mind that room to maneuver also comes with a downside: subjectivity. Whereas on the one hand discretionary freedom is praised, it is also the case that individuals making decisions may be biased or make improper use of their powers, which can lead to unfair judgement or even discrimination (Spader, 1984; Lipsy, 2010). As Cheliotis (2006) points out, this potential downside has been one of the reasons to develop risk assessment technologies in the first place: to prevent racism, sexism and other forms of discrimination that can be part of discretionary decisions made by humans. The use of statistical models and actuarial methods, which are at the core of risk assessment technology, would result in fair and objective decision-making without the potential negative side effects of subjectivity. Risk assessment technologies are therefore often presented as objective (Rose, 1998; Kemshall, 2003; Muller, 2004; Ericson, 2007; Wilson & Weber, 2008; Lyon & Haggerty, 2012; Broeders & Hampshire, 2013; Dekkers, Van der Woude & Van der Leun, 2016).

However, a factor that is often left out of this perspective is that risk assessment technologies do not operate within a vacuum (Cheliotis, 2006; Ballucci, 2008). They are part of an organization and wider social environment which consist of many individuals who all have particular tasks, but also ideas and views on how to perform those tasks (Selznick, 1948; Rose, 1998; Hupe & Hill, 2007; Tyler, Callahan & Frost, 2007; Lipsky, 2010). People's own beliefs may conflict with official policy or rules can be ambiguous, causing workers to follow the rules less strictly or interpret them in a way that was not intended (Hupe & Hill, 2007; Tyler, Callahan & Frost, 2007). With this in mind, these individuals can influence how policy, and by extension risk assessment technology, is applied in practice. As Cheliotis (2006) states, the Weberian idea of bureaucracy would overestimate the ability to suppress personal thought and influence and the underestimate human agency. For Ballucci (2008) the element of human agency is therefore reason to question if the development towards risk based thinking and the introduction of risk technology has actually been able to change institutional practices.

The above shows that the issue of risk technology versus human decision-making is a complex one. In the literature there are different and often contradictory views on how technology affects decision-making. Concrete expectations for the Dutch case study central to this chapter cannot be derived. In an exploratory way, this chapter aims to prove the importance of empirical insights into the use of risk technology in practice, as it can add the nuance to the theory on risk that Ballucci (2008) calls for, as well as offering a better understanding of the implementation and impact of risk assessment technology.

7.3 Methods

This chapter will employ two case studies to study the role of technology in discretionary decision making processes in migration control: one from the Netherlands and one from the United States of America. Although these countries differ in various ways, both are making progressively more use of risk technology in migration control and the discourse on migration for both countries show an increasing overlap of crime and migration, ergo crimmigration. The first case study is that of Amigo-boras. For this, researchers observed the officers of the RNLN on ride-alongs in the period of October 2013 – March 2015 during MSM checks at highways near the borders with Belgium and Germany. Researchers went on fifty-seven tours with the officers on seven different locations. The observations registered a total of 800 hours of observation. The MSM checks varied in size, ranging from four officers to thirty officers present, all of which could be approached by the researchers.

During the MSM checks researchers observed vehicles selected by RNLN officers and an observation form was used to write down observable characteristics of the vehicle, occupants and events during the check as well as if the check was a result of an Amigo-boras hit. When a vehicle was cleared and allowed to continue, researchers used a new form for the next vehicle that was stopped. This resulted in a total of 330 completed observation forms. In addition to the observations there was also time for conversations with the border patrol officers present at the MSM checks. Although there was no specific topic list or a structured approach for these conversations, they would often be about what was happening during the checks, the use of Amigo-boras or the work of the border patrol officers in general. Valuable information from these conversations was recorded in field notes. After the shifts, these field notes were written down in a more detailed manner. These field notes were later systematically analyzed using Atlas.ti. More qualitative data was collected through focus groups. These group conversations were organized after a year of ride-alongs. The aim of the focus groups was to get feedback on the preliminary results and to gather more in-depth information on specific subjects. A topic list was used during the focus groups.

In total thirteen focus groups were organized at seven different locations, resulting in twenty five hours of conversation. On average eight officers took part in the focus groups, ranging from six to twelve officers. The transcripts of these focus groups were analyzed in Atlas-ti. In addition to this more qualitative data, the RNLM also provided quantitative data on MSM checks and the use of Amigo-boras. This data contains, among other things, information on when and where the Amigo-boras system was used and which profiles were used during the checks. This information was analyzed using SPSS.

7.4 Immigration control with smart cameras

The Royal Netherlands Marechaussee is responsible for combatting irregular immigration and cross-border crime in the Netherlands. One of the ways it does so is through mobile migration checks called the Mobile Security Monitor (MSM). These checks consist of temporary checkpoints on highways near the border. There are however limitations to MSM checks due to national and international rules and regulations. According to the Schengen Border Code, not every vehicle that crosses the border can be stopped. Officers of the RNLM therefore have to make a selection. In addition, the Dutch Aliens Act sets time restrictions to the MSM, meaning checks can only last six hours each day on a single highway, with a maximum of ninety hours a month for each of the highways. In order to deal with these limitations and to make the MSM as effective and efficient as possible, the RNLM developed a smart camera system called Amigo-boras (Dekkers, Van der Woude & Van der Leun, 2016; Dekkers & Van der Woude, 2016). The system was installed on fifteen highways crossing the borders with Germany or Belgium and a several SUV's have been equipped with a mobile version of the system.

While the system has multiple functions - traffic data collection, vehicle selection based on risk profiles and an alerting system for specific vehicles - this chapter will focus only on the vehicle selection part of the system using risk profiles. Before the introduction of Amigo-boras in August of 2011 the selection of vehicles during MSM checks was entirely up to the discretion of the RNLM officers. Based on their own experience officers could select vehicles that they considered worth checking. With the introduction of Amigo-boras this practice has changed, as the system can now assist in selecting vehicles for immigration checks when they enter Dutch territory. In other words, the decision to stop a vehicle is no longer just up to the individual officer, but this decision can also be triggered by the Amigo-boras system. Which vehicles are flagged as potentially interesting by the system is decided based on a risk profile. In practice this means that the system takes a picture of the front of the vehicle – the occupants are not visible in this picture – and analyses the picture. If the

vehicle in the picture fits a risk profile, the system will send a signal to a RNLM officer behind a computer, called the director. The director makes a first assessment of the selected vehicle to see if it indeed is a match to a risk profile – which is displayed on screen – and, if so, will send information to an RNLM officers near the border who can stop the vehicle in question. The current research will only focus on the role of the officer stopping the vehicle in relation to Amigo-boras and not the role of the director.

Amigo-boras hits and individual assessment

Before getting to how the Amigo-boras influences the decision-making practices of the RNLM officers, a short description of how the system was initially presented is necessary. The goal of Amigo-boras is to *'implement an intelligent technology concept which enables the RNLM to act pro-actively, efficiently, effectively and intelligence led in border surveillance'* (Koninklijke Marechaussee, 2008). According to documentation on Amigo-boras one of the ways the system would accomplish this is by making use of advanced profiling.⁷⁹ The risk profiles used by the system would consist of multiple factors such as vehicle characteristics, traffic patterns and license plates (Koninklijke Marechaussee, 2009). According the Ministry of Security and Justice⁸⁰, the advanced profiling capabilities of Amigo-boras would enable a more accurate selection process and less unnecessary MSM checks of those who cross the border with the proper documentation,⁸¹ which should result in combatting irregular migration and irregular stay in a more effective and efficient manner.⁸² In addition, the documentation indicates Amigo-boras should result in a more objective selection process:

*'The system assist the selection process of MSM checks and makes faster and more objective, making Amigo-boras an effective addition to what now happens based on the professional experience of RNLM officers.'*⁸³

The official documentation does not give much more information than that, however. How the goals of a more efficient, effective and objective selection process are to be achieved in practice and how improvements are measured is not substantiated. The

79 Factsheet Amigo-BORAS, attachment to Parliamentary Papers II, 2011/12, 19637, nr. 1492; Aanbestedingsdocument Amigo-boras: Globaal Bestek.

80 At the time the document was published, the ministry was called Ministry of Security and Justice. In 2017 the name was changed to Ministry of Justice and Security.

81 Handelingen II, 2012/13, 29

82 Parliamentary Papers II, 2011/12, 19 637, 1562

83 Factsheet Amigo-BORAS, attachment to Parliamentary Papers II, 2011/12, 19637, nr. 1492

interviews and observations with the RNLM will therefore have to be used to get a better insight into the workings of the system.

While the documentation emphasizes the importance of the objectivity of the selection process using Amigo-boras, the interviews and fieldwork give a different, toned down perspective. Respondents underlined that the system is designed to *support* the decision-making process, not to replace human assessment and decision-making. As one respondent explained:

‘It is not the camera that makes the selection, it’s the camera that gives an indication. Like, ‘heads up [...], take a look at that.’ In the end it is always the officer that will make the selection.’

A vehicle selected by Amigo-boras therefore does not *have* to be stopped by the RNLM officers. When an officer does not think that a vehicle flagged by Amigo-boras is indeed worth checking, the officer can decide to let the vehicle pass by without a check. Likewise, if an officer thinks that a vehicle which is not flagged by Amigo-boras is worth checking, the officer can still decide to stop the vehicle. According to staff employees of the RNLM, the selection process while using Amigo-boras is therefore a combination of automated risk profiling and profiling by officers, as a result of which the officers still enjoy a fair amount of discretion by design.

However, the ride-alongs with the border patrol showed that the intended combination of automated risk technology and personal assessment as pictured by the interviewed RNLM policy officials was not as balanced in practice. The main issue was that according to street level officers the selection criteria of Amigo-boras were far too general. While the documentation of Amigo-boras presented its profiling capabilities as advanced, the fieldwork and interviews showed that this may have been an overstatement, as not every factor listed in the documentation on Amigo-boras was used in practice. In fact, the profiles were described by the majority of both officers and staff-level employees as being *solely* based on license plates. In the interviews and focus groups respondents stated:

‘Profiles, well, if you look at how that’s going with Amigo-boras, well, that’s all based on the country of origin of the vehicles.’

‘With Amigo-boras you can filter the interesting license plates. But you can’t use all kinds of profiles and such.’

The license plate was the primary factor in the selection process for Amigo-boas and could contain several pieces of information that could be linked to a risk profile. Mentioned most often during the fieldwork and interviews was the ability to extract the country of origin of the vehicle from the license plate. This was an important piece of information as the RNLM tended to focus on specific nationalities during MSM checks due to association between certain nationalities and certain forms of immigration offences or crime (see also: Van der Woude, Brouwer & Dekkers, 2016; Dekkers, *in print*). This is supported by the quantitative data made available by the RNLM which shows that the profiles used in conjunction with Amigo-boras are primarily aimed at vehicles from certain countries, which is seen as indicator of the nationality of the individuals in the car. Table 7.1 shows the names of the profiles used the most during MSM checks, the majority of which are linked to specific countries. Although the quantitative data itself does not give any insight into the precise variables of each profile, during the ride-alongs with the RNLM researchers were present at briefings before MSM checks. During some of these briefings the profiles used by Amigo-boras were discussed and displayed on a screen in the briefing room. Although the profiles consisted of multiple factors, including country of origin of the vehicle, type of vehicle and information on the occupant such as age brackets, gender and number of people in the vehicle, only the country of origin of the vehicle was detectible by Amigo-boras. The other factors, although part of the profile, were to be observed by the officers.

Table 7.1: ten most used profiles for the Amigo-boras system (N=3282).

Profile	Frequency	Percent
International touring car	2.558	77,9
Human trafficking in combination with Bulgarians	2.448	74,6
Human trafficking in combination with Romanians	2.442	74,4
Human trafficking in combination with Hungarians	2.436	74,2
German rental cars	2.307	70,3
Rental cars from company X	1.833	55,9
EMM license plates	1.176	35,8
Belgian taxis	1.129	34,4
Spanish license plates	1.077	32,8
Albanian license plates	1.076	32,8

Source: Royal Netherlands Marechaussee.

However, the license plate could be used for more than just determining the country of origin of the vehicle. Officers explained that since certain countries use area codes in their license plates, they could use these 'clues' to search for vehicles from specific regions that were connected with illegal activities. Since some countries also use specific letter combinations for rental cars or taxis, this information could also be used both by the officers as well as by the Amigo-boras system.

Although officers agreed that the license plate was an important starting point for vehicle selection, using only the license plate to derive the country of origin was not considered to be very useful by the officers.

'And profiles, well, looking at how that works with Amigo-boras, that's all the nationality⁸⁴ of the vehicle. Yeah, who's in it, in the vehicle, the system doesn't see that. The system isn't allowed to see that.'

'But it doesn't help, you can't do anything else with the system. It can only recognize a Dutch license plate, a Hungarian license plate, but it doesn't see a difference if the same vehicles passes by ten times or if it's a truck. It's only the nationality, based on the license plate.'

According to the officers, profiling in the context of the MSM included a lot more factors: characteristics of the vehicle, characteristics of the occupants and their behavior were all part of the selection process (see also: Dekkers & Van der Woude, 2016; Dekkers, *in print*). Officers indicated that without these additional factors, finding irregular migrants in the cross-border traffic would not be very efficient nor effective. As a result, officers valued their own expertise and profiling capabilities over the Amigo-boras system. This was explained during the focus groups:

'Why would you build a system to do something a person can do, and even better!?'

'I think a system like that will kind of work someday, but I think it will never be as good as doing it yourself.'

Variations on the statements above were often heard during both the focus group interviews and the fieldwork. In the eyes of the RNLM officers the technology was not able to do what they did, thus making the Amigo-boras system redundant. Some officers were of the opinion that technology should not even be part of the selection

process. That task was meant to be done by people, not machines, as an officer expressed during the fieldwork:

'But the MSM, that is, you are looking for people, it's people's work. So it should be done by people. That's how I see it.'

The ambivalence of RNLM officers regarding the usefulness of the Amigo-boras system resulted in three scenarios observed during the ride-alongs. First, officers would select vehicles not flagged by Amigo-boras purely based on their personal assessment. This was true for the majority of cases during the fieldwork. Out of the 330 observation forms filled out during the fieldwork, only ten were due to an Amigo-boras hit. It should be noted that Amigo-boras was not used during all observations, but even for the MSM checks where Amigo-boras was used the number of hits was low. Second, officers would let vehicles flagged by Amigo-boras go as the vehicles, based on the officers' personal assessment, weren't seen as interesting at all. Officers stated this was a regular occurrence, as Amigo-boras would flag vehicles of families going on vacation or elderly people who were not considered worth checking. Third, officers would stop vehicles that were flagged by Amigo-boras. With regard to this last category, officers often stated during the fieldwork that these vehicles would have also been selected without Amigo-boras. As an officer summed up during a focus group:

'To be honest, at the moment Amigo-boras is redundant, because if the vehicle would be interesting the officer would have spotted it anyway.'

Accountability

While the above seems to indicate that Amigo-boras has a limited influence on the decisions made by Dutch border patrol officers, the RNLM should be able to monitor to what extent the system is actually used in the decision-making process. As one of the main selling points of Amigo-boras, and risk assessment tools in general, is objectivity, it would make sense to monitor the outcomes of the system and how the information it produces is used. This would not only enable the RNLM to assess the impact of the system on the decision-making process, but would also enhance accountability. As defined by Hupe and Hill (2007) accountability is 'a social relationship in which an actor feels an obligation to explain and to justify his conduct to some significant other' (2007, pp. 286). By explaining which actions were taken and why, the significant other will be able to see and decide if those actions were rightfully taken, which plays an important role in creating and maintaining support and trust (Goldsmith, 2005). This is especially imperative for organizations who are

84 Although vehicles do not have a nationality, this was a phrase commonly used by RNLM officers.

able to take coercive measures that can have great impact on the lives of citizens or immigrants and therefore need to be taken carefully and responsibly. Riots and protests due to police misconduct in Paris in 2005, London in 2011, Ferguson in 2014 and Baltimore in 2015 are examples of what lack of accountability can result in. For the RNLM this means that they should be able to explain to the general public, their significant other, how and why decisions regarding MSM checks, a coercive measure, are taken in order for the general public to decide if the RNLM uses its coercive powers responsibly and deserve support. A factor that adds complexity to this issue is that MSM checks are initiated based on a discretionary decision of RNLM officers. As Lipsky (2010) points out, street-level decision-makers are hard to manage and individual accountability is difficult to achieve. This is particularly true for police organizations like the RNLM, where discretionary decision-making is seen as an important part of the organizational culture (Gundhus, 2017). Yet, in the ongoing professionalization of police organizations an attempt is made to gain control over officers' discretionary decisions through bureaucratic and managerial means (Cockcroft, 2015). Automating part of the workflow or using information technology is often seen as a (partial) solution to this problem, as it would enhance accountability by giving insight into the decision-making process of street-level bureaucrats (Ballucci, 2008; Buffat, 2015). Therefore, quantitative data on Amigo-boras could enhance the accountability of the RNLM by making the decision-making process more transparent and by showing to what extent it adds to the objectivity of the decisions made by RNLM officers. Considering the skepticism which accompanied the introduction of the system (NRC, 2011; Privacy First, 2015; Telegraaf, 2016), the RNLM could use their quantitative data to show the added value of Amigo-boras and improve public support and perceived legitimacy of the system.

Oddly enough, the RNLM claims to have no such data. This was explained by the fact that the system is stand-alone and is not connected to any other databases. Amigo-boras registers when which vehicles were flagged and only that. If the flagged vehicle was actually stopped is not registered. The outcome of the check is registered in a separate database not connected to Amigo-boras. Therefore, in case the RNLM would want to know if a vehicle was selected by Amigo-boras or an officer, they would have to manually find a match in two databases. As this is time and resource consuming work, the RNLM has not taken up this chore meaning there is no quantitative data available on if the system has any impact on the decision-making of border patrol officer and if the system has successfully identified vehicles related to irregular migration and cross-border crime. This, of course, raises the question how the RNLM is ever going to be able to evaluate the performance of Amigo-boras. Although the system was implemented to make the MSM checks more objective, effective and

efficient, seeing if this is actually true becomes very difficult if there is no data on any of the processes and outcomes. How is it possible to back up the claim that Amigo-boras will contribute to the combatting of irregular migration by flagging high risk vehicles and letting low-risk vehicles pass if it is unknown which vehicles the system actually flags and what the outcomes of the MSM checks are? In addition, how is it possible to hold officers accountable for their selection practices if it is unknown if vehicles were selected by Amigo-boras or an officer? One would expect such a fundamental feature to be in the interests of the RNLM and to be part of the system design. The absence could imply the system was designed by individuals with a lack of expertise on the subject, a lack of effort to implement such a feature or being left out on purpose. Whatever the reasons may be, this crucial lack of information suggests that accountability was not a high priority when designing the system.

The Amigo-boras case study will therefore not be able to give a complete insight in the workings of decision-making using risk assessment technology in migration control. However, other sources could prove to be helpful in filling this gap and show why it is important to study the actual impact of such systems with accountability in mind. For this we turn to a different risk assessment tool in migration control called the Risk Classification Assessment (RCA), used by the US Immigration and Customs Enforcement (ICE). The RCA generates recommendations on whether or not an alien in ICE custody is to be released from custody or to be detained. In case of the latter, the RCA can make a bond recommendation and it recommends the security level necessary for the detention, called the custody classification levels (US Immigration and Customs Enforcement, 2012a; see for more on the RCA: Noferi and Koulish, 2014). In this chapter we will only focus on the decision to detain or not. While the RCA seems like a different system compared to Amigo-boras, they have more in common than one would expect on first glance. Both operate in the context of migration control, use risk assessment methods and give recommendations that migration officers can use for decision-making. They serve the same fundamental purpose and use similar methods. However, unlike the case of Amigo-boras, ICE does collect data on the RCA assessment and the following decision made by the officer, giving further insight in to what extent the systems is used in the decision-making process. This data was acquired through Freedom Of Information (FOIA) requests by one of the authors (see also: Noferi & Koulish, 2014), resulting in a data set containing 585 individual risk assessments based on RCA Detailed Summary reports. All individuals in the data set were processed by ICE in the period March – July 2013. The data is not national data and only contains subjects from the Baltimore area. The results presented below are therefore not representative for the US as a whole.

The RCA's recommendation to detain or not is based on two factors: risk of flight and risk to public safety. Both factors consist of several variables, such as home security and community support for risk of flight and criminal history and ties to gangs for risk to public safety. Based on these variables a person could score a low, medium or high for risk of flight or risk to public safety. When a person scores low on both factors, the RCA will recommend to release and scoring high on at least one of the two factors will result in a recommendation to detain. The RCA will not make a concrete recommendation in all cases, however, as in the case of a combination of two mediums or a medium and a low the system will defer to the supervisor. As emphasized by ICE documentation, the RCA output should be considered a recommendation and 'ICE personnel maintain the ability to exercise discretion and document all decisions.' (US Immigration and Customs Enforcement, 2012b). If an ICE officer disagrees with the RCA risk assessment, the officer can choose not to follow the recommendation and decide differently. In the light of objective and uniform decision-making using risk assessment technology, this is an important step in the process and requires further investigation.

Table 7.2: RCA recommendations versus final decisions

RCA recommendation	Supervisor decision	Frequency	Percent
Supervisor to determine	Release	51	41.1
	Detain, bond	23	18.5
	Detain	50	40.3
	Total	124	100
Release on community supervision	Release	1	20.0
	Detain, bond	0	0
	Detain	4	80.0
	Total	5	100
Detain, eligible for bond	Release	20	18.2
	Detain, bond	48	43.6
	Detain	42	38.2
	Total	110	100
Detain	Release	34	9.8
	Detain, bond	1	0.3
	Detain	311	89.9
	Total	346	100
Total		585	100

Source: Baltimore data set

The risk assessment data was analyzed to see what the recommendation of the RCA was and what decision was subsequently made by ICE officers, displayed in table 7.2. The analysis shows ICE officers, in cases where the recommendation was not to defer to the supervisor, deviate from the RCA recommendations in a substantial amount of cases: 21.9%. There are also cases for which the RCA was not able to make a recommendation and deferred to the supervisor instead. With 21,2% of total cases in the data set, this again is a sizeable portion. If we add up the cases where the an ICE officer decided not to follow the RCA recommendation and the cases where the RCA deferred to the supervisor, a total of 43,1% of the decisions to detain or not were not based on a RCA recommendation.

The RCA results more are in line with various studies that indicate that the actual impact of risk assessment technology is limited in practice (Schneider, Ervin, & Snyder-Joy, 1996; Lynch, 1998; Broadhurt et al, 2010; Fitzgibbon, Hamilton, & Richardson, 2010; Kemshall, 2011; Oleson et al, 2011) than the idea of a risk tools as a means to objective decision-making. Now the question remains: what can we learn from these insights for the Amigo-boras case study? While it was expected that Amigo-boras would have a limited influence on the decision-making process of RNLM officers based on the qualitative data, the lack of quantitative data on the decision-making process made it difficult to draw a definitive conclusion. The RCA data shows why it is important to have such data available. Similar to RNLM officers using Amigo-boras, ICE officers still have significant room for discretionary decision-making, as the recommendations can be put aside if the officer chooses to do so and in some cases the RCA is not able to give recommendation. Based on the analysis of the RCA data set both scenarios occur regularly, indicating that the risk assessment technology in question has a limited impact on the actual decision-making. Considering the similarity to the workings of the RCA and what can be learned from the qualitative data on Amigo-boras, this is solid ground to place serious doubts on the claim that Amigo-boras makes the selection process of RNLM officers during MSM checks more objective. At the same time the absence of the ability to relate outcomes of vehicle stops to Amigo-boras data makes it difficult for the RNLM to hold individual officers accountable for their actions. As it is difficult to retrieve if their actions were the result of a discretionary decision or an automated risk assessment, potential wrongful selection practices could be brushed away by saying the officer' actions were based on Amigo-boras. In that sense, Amigo-boras most likely not only has little effect on the objectivity of the decision-making process, the lack of insight in how the system impacts decision-making also enables shifting blame for improper action from the officer to the technology, in effect decreasing accountability of individual officers.

7.5 Conclusion and discussion

This chapter aims to contribute to the literature on discretion and risk assessment tools by exploring a case study of the Amigo-boras camera system and finding an answer to the question *to what extent does the use of risk assessment tools such as Amigo-boras increase the objectivity of decisions that would otherwise be taken by street-level bureaucrats?* The interviews and observation indicate that Amigo-boras had a limited influence on the decision-making process and RNLM officers had ample room to exercise discretion. Officers still had full control over which vehicles were stopped for MSM checks and could freely use or ignore information supplied by Amigo-boras. This gives solid reason to doubt the system's ability to make the selection process more objective, but the lack of quantitative data on the outcomes of the system prohibits concrete conclusions. What can be said is that the idea of an iron cage of risk assessment technology or a *system level bureaucracy* (Bovens & Zouridis, 2002) where technology has all the decisive power does not seem present in the case of Amigo-boras. Its design also shows that this was the way the system was intended to work and RNLM officers were intentionally given the ability to exercise discretion in the vehicle selection process. While the ability to exercise discretion is not problematic in itself, it does become an issue when the system is presented under the banner of so-called objective technology. Like most risk assessment technologies Amigo-boras is said to be based on scientific methods and improve the objectivity of the decision-making process (Hannah-Moffat, 2013; Côté-Boucher, 2016). As Hart et al (2007) point out, the use of discretion in conjunction with risk technology is sometimes presented as pragmatic and even-handed, but it defeats the purpose of the technology. What purpose would an objective risk assessment serve if decision-makers can overturn it without restraint?

At the same time the Amigo-boras case study shows the importance of the ability to exercise such discretion as fully relying on risk assessment technologies brings its own potential issues. The profiles of the Amigo-boras system are primarily based on the country of origin of the vehicle, making them all but refined. It can even be argued that, while risk assessment technology was among other things developed to prevent biased decision-making by humans (Cheliotis, 2006), Amigo-boras seems to be doing the exact thing it was supposed to prevent: biased decision-making. The profiles used by Amigo-boras label entire nations as high-risk, equating specific nationalities to irregular migration or cross-border crime. This does not only lead to ethical and possible legal issues regarding discrimination, but as one of the goals of Amigo-boras was to make the selection process more effective and efficient, labeling entire nationalities as high-risk seems counterproductive to that end.

This leads to the following issue: if Amigo-boras does not make the vehicle selection process more objective and the accuracy of the risk assessments can be questioned, could there be other reasons to introduce such risk assessment technologies? Crimmigration can be a possible answer to this. As immigrants are increasingly seen as a high-risk demographic, measures are taken to protect society from the perceived dangers. As Kemshall (2003) remarks, an important aspect of the risk society is to play it safe, better safe than sorry. The broad sweeping risk profiles as seen in the Amigo-boras are in the spirit of such overly cautious and punitive measures as they target large groups of immigrants based on nationalities who are perceived as high-risk (see for more: Brouwer, van der Woude, Van der Leun, 2017; Dekkers, *in print*). In light thereof, risk assessment technologies such as Amigo-boras could become tools to suppress unwanted immigrant populations, using a combination of Fitzgibbon's (2007) notion of preemptive criminalization and Lyon's (2003, 2007) concept of social sorting and showing worrisome signs of institutional racism. This becomes even more problematic as risk tools coast on the 'objectivity effect', as Rose (1998) calls it, giving seemingly scientific validation to such views (Byrne & Marx, 2011).

These far reaching downsides demonstrate why accountability is – or should be – such an important aspect of risk assessment technology. As Chan notes, 'technology most certainly has the capability to improve efficiency and enhance accountability, but whether this capability is realized in practice is not a forgone conclusion' (2001, pp 141). While politicians and policy-makers may have high expectations of technology (Nye, 2004; Kearon, 2012), the Amigo-boras case study shows that high expectations should not turn into blind faith. Keeping track of how technology impacts decision-making and what the outcomes are should therefore be standard procedure for any risk assessment technology to make sure it serves the purpose it is said to serve. If not, risk assessment technology could be nothing more than a veneer of technology or a 'canopy of science' (Manning, 2001; Cope, 2004; Innes, Fielding & Cope, 2005; Brown & Brudney, 2012; Darroch & Mazerolle, 2012) for the decision-making process, being little more than a symbolic gesture masking or even exacerbating biases in discretionary decision-making by street-level bureaucrats.

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