Book Review

Review of McCulloch, Jude, and Dean Wilson. 2017. *Pre-Crime: Pre-Emption, Precaution, and the Future*. New York: Routledge.

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The term *pre-crime*, taken from sci-fi author Philip K. Dick's dystopian short story *The Minority Report*, invokes a conceptual holy grail of security: the possibility of prophesying criminal acts to forestall them. While it is not the first time criminologists have mined this idea for its theoretical applications (see notably Zedner 2007), McCulloch and Wilson's *Pre-Crime: Pre-Emption, Precaution, and the Future* (2017) is a thorough book-length attempt that illustrates its connection to risk theory and contemporary surveillance studies. Their work successfully delineates the history of pre-crime law and its contrasts with traditional criminal law, and it provides critical insight into state security practices.

The authors posit that the legal temporality of the criminal act has shifted. A traditional post-hoc conception of crime that consists of both *actus reus* (the guilty act) and *mens rea* (the guilty mind) has given way to a pre-crime orientation that severs the two: it decouples action from intent, and evidence from suspicion. While the criminal justice system has long included anticipatory crimes such as attempt and conspiracy, the authors contend that "pre-crime extends this future-oriented trajectory of criminal law and criminal law-like tools beyond prevention to pre-emption, eschewing the past as a guide to future threat and seeking to address more temporally distant threats" (17). Stretching the boundary of criminality to include those merely suspected of intent or capability creates negative repercussions for civil protections of due process, standards of evidence, and the presumption of innocence.

The first chapter lays the foundations for a theory of pre-crime by foregrounding its differences from traditional criminal justice and risk theory in terms of its temporality, objectives, and rationalizations. The authors organize pre-crime laws and practices into four categories that fall within their definition of "substantive coercive state intervention targeted at non-imminent crimes" (5): (i) pre-emptive criminal classification imposed on young offenders, (ii) crimes of association and encouragement, (iii) detention or restrictions on the basis of capability, and (iv) interventions based on suspicion of intent (7). The book leans heavily towards the application of the latter three categories to modern-day counterterrorism policy in the US, UK, and Australia.

While the authors assert that the acceleration of security practices post-9/11 was a factor in the development of pre-crime, they caution that "the 2001 attacks on the US were not so much a game-changer as a new move in a game that continued to cede criminal justice due process concerns to security's future orientation" (57). The book's second chapter traces a history of preventative measures deployed by police and security forces that have included various "wars" on crime, the creation of status offences, the use internment camps

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in WWII, and the counter-insurgency efforts of colonial powers. Continuing that genealogy of pre-crime, the third chapter is devoted to illustrating its evolution from theories of risk-based crime control popularized by Ulrich Beck, David Garland, and Richard Ericson in the late twentieth century. While risk draws calculations of future crime from the data of past events, McCulloch and Wilson assert that “past crime patterns, convictions or criminal charges are not the primary guide to the formulation of risks in pre-crime. Instead, future crime is based on suspicion, fragments of data and—ultimately and significantly—imagination” (40). The history of preventative criminal justice interventions they provide is brief; however, it is sufficient to highlight a linear connection between contemporary and past practices.

Chapters 4 and 7 focus on how the intelligence community and counterterrorism practices have become dependent on a pre-crime orientation. Though they do not recognize the “war on terror” as a singular catalyst, McCulloch and Wilson assert that the expansion of state security post 9/11 has encouraged much greater integration between the intelligence community and conventional police forces, as well as provided the necessary exceptional justifications for coercive intervention. The authors describe how these institutions operate from distinct paradigms: intelligence is oriented towards future threats that are investigated in secret, while domestic policing examines past-focused actions with established standards of evidence that are investigated in the public eye. Merging the two paradigms through the logic of pre-crime transforms those standards, creating crimes of suspicion and identity that are probed with greater scrutiny and less transparency. In addition, introducing the perspective of being at war to criminal investigation has opened up a space for military approaches “where the frame shifts from crime to war [and] the task also shifts from detecting crimes to identifying foes” (26). This aspect of pre-crime is of particular concern to the authors, who warn that as intent and identity become inseparable (66), suspect communities find themselves the target of both greater scrutiny and prejudicial treatment. The sections on counterterrorism and wartime rationale arguably hold the most contemporary relevance and are well addressed in this book, perhaps to the detriment of expanding the discussion to include other related issues.

Chapters 5 and 6 focus more specifically on investigative practices, examining how the use of technology and intelligence gathering have been affected by the shift towards pre-crime. The authors suggest that as police and security forces strive to connect the dots of potential threats, the use of predictive analytics based on information gleaned through data mining has been driven by a “relentless thirst for evermore data fragments” that “will yield hitherto concealed patterns and associations out of which the future may be constructed” (78). An added effect of technological integration is the appearance of neutrality it grants to investigations that masks the racialization of suspect communities. This “carapace of precision, certitude, and scientific neutrality” (76) becomes paired with the use of potentially questionable intelligence provided by informants and undercover agents. Practices of infiltration may not only cross into the legal territory of entrapment but also have the effect of making pre-crime a self-fulfilling prophecy as state agents engage in the facilitation of activities that would not have otherwise been committed. The authors contend that the environment of suspicion that pre-crime fosters encourages a regenerative cycle where coercive state interventions sow anger and distrust in suspect communities. While these chapters are cogent in joining security practices to pre-crime rationales, the authors could have enhanced their scope with valuable insights from the sociology of science and technology on the concept of black boxing knowledge and the production of objectivity that the introduction of so called “hard” science brings to police and intelligence activity.

McCulloch and Wilson’s book provides an important contribution to surveillance studies by laying out the processes and effects of extending the temporal boundaries of criminal law. The appeal of the theory to researchers of multiple disciplines speaks to the broadness of its potential applicability, which might be the book’s only limitation: it is short on specific examples of pre-crime law and practice outside of the handful of cases provided. Future research in this area might catalog pre-crime laws, investigative methods, and a daunting surfeit of related cases in different nations to compare and contrast how they have developed. Scholars whose interests lie outside police and security may find the theory useful for studies into how pre-crime conventions relate to status offences and youth crime as well as to sex offenders and sex workers more broadly, areas that this book touches on only briefly. It is ironic in the light of its dystopian origins that the future of research in this area is so bright. *Pre-Crime* provides an excellent starting point from which

scholars may navigate the murky legal waters of surveillance and holds the potential to become a seminal work utilized by a wide range of social researchers.

References

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