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| |  | | --- | |  |  |  |  |  |  | | --- | --- | --- | --- | | [Paul Joseph](http://docs.google.com/bios.htm#joseph)     |  | | --- | | **Read other reviews:**  [Paul Bergman](http://docs.google.com/minorityreport_bergman.htm)  [J. Howard Sundermann](http://docs.google.com/minorityreport_sundermann.htm)  [Internet Movie Database](http://www.us.imdb.com/Title?0181689)  [All Movie Guide](http://allmovie.com/cg/avg.dll?p=avg&sql=A262610)  [Readers' comments](http://docs.google.com/user_feedback.htm) |       Perhaps the problem with Pre-Crime is its premise, that we punish what might happen rather than what has happened. Certainly, the idea of punishing thoughts is abhorrent to any society that believes in freedom. What is in our minds is our most private and intimate domain. | |  | | --- | | ***Minority Report*: Is the Future Now?**  by Paul R Joseph  \*Note: This article contains "spoilers." Do not read until you have seen the film.  At the end of the recent film, *Minority Report*, the Pre-Crime experiment is disbanded. The immediate reasons seem to be two: first, the existence of "minority reports" (occasions when one of the three Pre-Cogs has a different image of events than the other two) indicates that not all Pre-Crime suspects will actually kill as predicted; and second, it is possible, with deep inside knowledge of the system, to fool it by "hiding" a murder so that it will be read as a "deja vu" Pre-Cog reading and discarded. Neither reason supports the elimination of the unit and the film's conclusion may give an erroneous impression about the accuracy of our own criminal justice system.  Let's be clear. Both reasons for disbanding the Pre-Crime unit essentially boil down to the fact that the system is not perfect. Either an innocent will be punished for a crime he would not have committed, or a guilty person may elude detection.  The very same objections can be made about our own system. True, we do not attempt to punish crimes before they occur; rather, we generally know that a crime has taken place. What we don't know is whether the defendant is the person who committed the acts in question (and, of course, we must often judge the state of mind of the defendant at the time he acted). The trial mechanism is intended to resolve these issues but we do not require that the resolution rest on absolute proof to the exclusion of any other possibility. The "reasonable doubt" standard is a high one but it falls short of requiring absolute certainty. As a standard jury instruction puts it (in part), "A reasonable doubt is not a mere possible doubt, a speculative, imaginary or forced doubt." (Section 3.7, Florida Standard Jury Instructions in Criminal Cases, Fourth Edition, 2002). Because absolute proof is not possible, we do not require it. We label such "well, there is always a possibility that he's innocent no matter what the evidence"as "unreasonable doubt" and we tell the jury to convict.  In essence, we accept an error rate-we know that some- but very few-- innocents will be condemned. It is only when the error rate appears to be larger than what is "acceptable" that we become alarmed. Something like this crisis of confidence is now brewing with regard to the death penalty as the number of accounts of innocents condemned to die swell, leading to moratoria and calls for reform or even abolition of this impossible-to-correct punishment. In *Minority Report*, the "error" rate seems very low-certainly lower than in our own very real legal system. Further, the error rate could be cut down significantly by not condemning in any case for which there is a "minority report." And, since the condemned in *Minority Report* are not executed but merely kept in stasis, there is always the ability to release a person determined to have been wrongly accused.  It is also not a strong case for abandonment of the project that its founder was able to conceal his own crime. First, this appears to be the only such case in the history of the Pre-Crime Unit and it is clear that only someone with an intimate knowledge of the workings of the system could have pulled the deception off, even for a short time. The glitch in the system, that "deja vu" visions of murders were routinely erased, would certainly have been corrected.  In our own criminal justice reality, we have become aware that sometimes cops go bad. They lie, they steal, they cheat and they frame innocents for crimes. Scandals in the New Orleans Police Department and the Ramparts division in Los Angeles are not unique. We know this but we do not call for the abolition of all police departments. Rather, we investigate allegations of wrongdoing, sometimes prosecute bad cops, maintain "internal affairs" divisions, look for systemic ways to further professionalize police, etc. All in all, the Pre-Crime unit in *Minority Report* doesn't seem like a likely candidate for closure on the grounds of corruption.  Perhaps the problem with Pre-Crime is its premise, that we punish what might happen rather than what has happened. Certainly, the idea of punishing thoughts is abhorrent to any society that believes in freedom. What is in our minds is our most private and intimate domain.  But Pre-Crime does not purport to punish mere thought. Rather, the premise is that the Pre-Cogs see the future-or at least, as we come to learn, the very likely future. Even here, it isn't so clear that our own criminal justice system does not have at least some parallels to the Pre-Crime approach portrayed in *Minority Report*. Consider two examples: conspiracy and preventive detention.  Conspiracy is really an agreement among persons to commit a crime. The District of Columbia, where Pre-Crime operated in *Minority Report*, requires some overt act be committed towards achieving the criminal goal but it need not be committed by the particular defendant. Acts of each conspirator are attributed to all other members of the conspiracy. The underlying crime need not actually be committed. Thus, a defendant could be charged with conspiracy to commit murder even though the murder never takes place and even when the plot did not evolve to a stage where the conspirators could be charged with an attempt.  Although we define conspiracy itself as a separate criminal offense, which means that we do not have to deal directly with the issue in *Minority Report*, it could be argued that there is a near parallel between criminal liability for conspiracy and holding people accountable for crimes they would very likely have committed unless arrested. In both cases, society has found a way to hold people to account for their intended and likely future wrongful acts without the necessity of waiting until the act has actually come to pass.  In bail hearings, judges routinely calculate the likelihood that the defendant will appear at trial and deny bail when the defendant is a "flight risk." This form of preventive detention is applied because the judge has calculated that the defendant is likely to flee in the future and therefore can be held in jail now to assure his appearance. While we staunchly deny that this jail term is "punishment," it is unlikely that the incarcerated person takes much comfort in that. Jail is jail whatever label we put on it.  There is a growing belief that some violent sex offenders suffer from some sort of personality disorder or mental condition and that this produces a high probability that they will repeat their crimes. In response to this, some states have passed violent sexual predator laws (The Florida version is called the Jimmy Ryce Act and can be found at FL ST Section 394.910 et. seq. ) Under these laws, the person in question (generally someone already incarcerated for a past crime but shortly to be released), upon appropriate legal findings, can be civilly committed for an unlimited term in a secure treatment facility until such time, if ever, that the person is no longer a danger to others. Because the process is civil rather than criminal-that is, its purpose is not punishment-- the statutes artfully dodge the "punishment for future crime" issue directly faced in *Minority Report* [the civil nature of the commitment also avoids many of the Constitutional protections which would apply to a punitive regime. See, for example, Seling v. Young, 121 S.Ct. 727 (2001)], but the result is much the same. A person found likely to commit particularly serious future crimes is involuntarily removed from society primarily due to a prediction of future crimes the individual may (or may not) commit.  While we do not yet claim to punish criminals before they commit crimes, the core concept of *Minority Report*, that predicted future criminal conduct is sufficient grounds for locking a person up, may be closer to realization in the real world than some might suppose. If anything, the Pre-Crime process shown in the film probably has fewer errors and better predictive value than analogous parts of our own system.  *Minority Report* ends with the abolition of the Pre-Crime unit. It is just too dangerous and too error prone to be allowed to function. We come to realize that there is something deeply troubling about locking people up for what they may do in the future. If those views are right, then perhaps there are parts of our own system that should be carefully reexamined.  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