Issa KOHLER-HAUSMANN, *Misdemeanorland: Criminal Courts and Social Control in an Age of Broken Windows Policing* (Princeton, Princeton University Press, 2018)

The excellent *Misdemeanorland* starts with a fascinating puzzle. In the mid-1990s the New York City police department made a change to the way they policed the streets of New York. Things like transit fare evasion, public urination, disturbing the peace, and public drug abuse all became targets of what would otherwise be known as "zero tolerance," "quality-of-life," or "broken windows" policing. The idea was to "get tough" on minor or victimless crimes and deter people from pursuing more serious acts of crime. The new practices resulted in a four-fold increase in misdemeanor arrests between 1980 and 2010 and would come to revolutionize policing practices around the world. The puzzle is this: very few of the newly arrested were ever convicted of crimes in a court of law. In fact, someone arrested for a misdemeanor after the policing changes in the mid-1990s was *less* likely to be convicted than someone arrested for similar crimes before the changes.

Before we return to the puzzle, I must point out what an accomplishment it was for Kohler-Hausmann to determine what was happening to all the people being arrested but not being convicted. These arrested people were being assigned to the category of "dismissals" in publicly disseminated statistics, which suggested that cases were simply being relinquished and individuals were going unpunished. It is only by spending significant time in the courts, watching actors as they made decisions, that we are able to know that these "dismissals" were usually "adjournments in contemplation of dismissal" (ACDs). Judges allowed these cases to be adjourned for a certain period of time and, importantly, placed requirements on the individual (including, e.g., community service or drug-rehabilitation programs). If the individual stayed out of trouble during the period of adjournment, the original arrest would be stricken from the record. This became a sort of probation status that identified these individuals as potentially suspect. She shows that with modern surveillance techniques it was easy (using only a $50 online search) for public agencies, housing owners, and potential employers to obtain access to

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knowledge of this provisional status, which had major effects on employment, housing, and public aid opportunities. There was no way to ascertain the organizational and social meaning of a "dismissal" without watching these cases unfold. Kudos to the power of ethnography.

It is my experience that, when ethnographers set out to "explain" puzzles, readers sometimes conflate the functional, present-day purpose of the phenomenon under study with its historical cause. In what follows I try to disentangle these two kinds of explanations. It is my hope that in doing so we can learn more about *Misdemeanorland*, clear up potential misinterpretation of its main argument, and excite potential for future research on criminal courts.

Kohler-Hausmann convincingly shows that the present purpose of ACDs is to exert some kind of punishment of and social control over the newly arrested in the context of insurmountable caseloads. As the actors in her field site repeatedly say: "we just have to do something." This argument relates to the present purpose of the practice; it would be quite another thing to say that this was the reason the practice came into existence in the first place.

I believe that by conflating that argument with a historical cause, some readers have become confused about one of the book's takeaways. I have seen some readers interpret the book as arguing that the rise of "dismissals" is probably due to caseload management: that courthouses were seeing far too many arrestees and did not have the capacity to fully convict them all; they thus had no other choice but to develop a system that rationalized their abdication. In contrast, I have seen other readers take the book to be arguing that the cause of this transformation was a mix of cruelty, racism, and a need for social control in the service of city elites.

Establishing the origins of the practice of ACDs requires a different empirical investigation, such as an examination of a critical juncture of decisions in the mid-1990s that put a set of policy arrangements and agency practices into place. While such an investigation is not the aim of the book, there are traces of this critical juncture sprinkled throughout *Misdemeanorland*. Before the rise of ACDs in the late 1990s, we learn that the courtroom dismissed cases under the category of "30.30 dismissals": cases was matriculated out of the docket because 30-90 days (depending on the class of charge) had passed without the prosecutor being "ready" to bring the case to trial. In practice, this was a way for court actors to manage high caseloads and relinquish responsibility. Speaking of the period before the rise of "broken

windows" policing, one supervising prosecutor said, "in the past, like 40%-50% of these cases would get dismissed on 30.30. just speedy trial. Because we couldn't get our shit together on time." The fact that these 30.30 dismissals were applied to nearly 50% of the caseload indicates significant signs of resource scarcity. After the mid-1990s, Kohler-Hausmann finds that administrators began to target these "30.30 dismissals" through a number of reforms with the goal of keeping the number of these dismissals low. Not only have "30.30 dismissals" fallen to about 15% of the caseload, their social meaning has changed: rather than simply being cases the prosecutors did not have time for, the dismissals began to be used specifically when prosecutors did not feel the case was worthy of prosecution but did not want to incur any political damage that might result from choosing to dismiss defendants who might later commit serious crimes. Of course, the drop in the 30.30 dismissals was replaced with a concomitant increase in ACDs (the practice documented by Kohler-Hausmann and shown to be highly coercive).

In other words, the misdemeanor courts went from a system that allowed surplus cases to simply expire off the docket (30.30 dismissals) to a system that temporarily exerted social control on defendants for six months to a year before the case was dismissed (ACDs). To be clear, this means that we can rule out the explanation that these practices were put into place because of courtroom overload. The court actors actually took on more work (in the form of procedural processes and marking of defendants) when they began to see more arrests coming through the system. Readers who continue to interpret this shift as a form of resource scarcity simply have not read the work closely enough.

In the brief oral history accounts offered in *Misdemeanorland*, it is not clear what would be an alternative explanation for the origins of the reliance on ACDs. The same supervisor quoted above explains:

> There was a big push to get the first years and the second years to start thinking about misdemeanors a lot more seriously and not let them 30.30. Guidelines became a lot more stringent… in my opinion the guidelines became less suggestions and more mandates.
>
> That's just my sense. That's not based upon anything anybody said to me or anything I heard a supervisor say to anybody else. That was just the energy, kind of.

This is a kind of historical "black box." There are several possibilities for what caused the administrative turn towards ACDs in the mid-1990s. Were there racists at the higher levels of the New York City government who sought to discipline people of color through the targeting of misdemeanors and the use of provisional

probation? Given the history of racial politics in New York City during that time period, it is certainly possible. Were there real estate moguls concerned with raising property values by creating a new, sanitized public space in the city? Given the subsequent gentrification of the city, this was certainly possible. Was it due to criminologists concerned with keeping crime rates down by surveilling individuals who had committed misdemeanors, and deterring them from committing more serious crimes? Given the dominance of "warehouse" models of crime-control dominant among criminal justice thinkers at the time, this was also certainly possible. Perhaps some mix of actors and interests shaped this reformulation; the important socio-legal scholarship on "penal fields" would certainly suggest so. However, the latter may leave some readers feeling underwhelmed with an explanation of "unintended consequences." We need an administrative history of the relationship in the mid-1990s between New York City's District Attorney's office, the police department, the city's political offices, and probably those in control of the city's jail capacity.

In the concluding chapter, Kohler-Hausmann takes on the difficult task of seriously considering whether the world of mass misdemeanors is a good thing or a bad thing. This is something I think many scholars would stray away from. On the one hand, Kohler-Hausmann wonders whether this system is preferable to convicting these individuals and putting them in jail with un-erasable criminal record. On the other hand, she points out that readers should be horrified by the human toll this is taking on the poor and brown and black people of New York and presumably elsewhere. As citizens, we should be horrified that the courthouse is not seeking the truth of whether criminal acts were committed or whether the police respected citizens' rights during their arrests. Instead, the courts are simply interested in keeping tabs on people and holding them accountable to procedural processes, at the potential cost of their housing and employment, and most certainly at the cost of their dignity. As Kohler-Hausmann points out, if this was only about crime, there are other tools to bring down crime; fixing broken windows does not require punishing the people who might break them. I hope this review makes clear that if we were to add information on the historical cause of this moment (in addition to its present purpose) we might further clarify that it was never concerned with crime control but with controlling people who are different from the city elites.

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