

The Portrayal of the American Legal System in Prime Time Television Crime Dramas

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Abstract

This is a case study looking at how the legal system is portrayed on prime time network television crime dramas in respect to suspect treatment, the case building process and trial length. Through content analysis, it compared the exaggerations presented in those dramas to real-life accuracies. The Good Wife, Law & Order: SVU, Fairly Legal and Major Crimes were selected to study, and the fourth and seventh episodes of each television program's season broadcast within a one-year period were watched. It was found that though suspect treatment is portrayed fairly accurately in prime time network television crime dramas, tendencies of exaggeration and inaccuracy exist through the case building process and trial length. These inaccuracies and exaggerations lead viewers to misinterpret the processes of the United States legal system.

I. Introduction

In 2010, the Federal Bureau Investigation (FBI) reported an estimated 1.2 million violent crimes occurred nationwide in the United States.¹ To relay stories concerning these instances of murder, rape, robbery and aggravated assault to the public, television stations dedicate approximately 20 percent of news coverage to crime reporting.² Through expansive crime coverage, television stations have attracted large, loyal audiences. In July 2011, 5.2 million people tuned into network HLN to watch the Casey Anthony verdict.³

It is evident Americans have become infatuated with suspects, criminals and the legal process. Major television networks have recognized this interest and have developed crime scene drama programs that are supposedly modeled after real-world legal cases.

Today, the CBS television network broadcasts drama *The Good Wife* during prime time hours on Sun-

* **Keywords:** Primetime television crime dramas, United States legal system, suspect treatment, the case building process, trial length

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1 "Violent Crime," *Federal Bureau Investigation*, n.d., <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/violent-crime/violent-crime> (September 17, 2012).

2 "Crime Most Common Story on Local Television News," *Kaiser Family Foundation*, March 12, 1998, <http://www.kff.org/mediapartnerships/1374-crime.cfm> (September 17, 2012).

3 Brian Stelter, "Casey Anthony Verdict Brings HLN Record Ratings," *New York Times*, July 6, 2011, <http://mediadecoder.blogs.nytimes.com/2011/07/06/casey-anthony-verdict-brings-hln-record-ratings/> (September 17, 2012).

day.⁴ NBC airs *Law & Order: SVU* during Wednesday prime time.⁵ USA broadcasts *Fairly Legal* on Fridays during prime time,⁶ and TNT airs *Major Crimes* during prime time hours on Monday.⁷ In order to keep large audiences watching, these crime scene dramas have exaggerated aspects of the legal process, droning out legal jargon to spice up the courtroom's atmosphere. Through embellished, false presentations, crime dramas have painted inadequate pictures of the legal system for American viewers.

So, with millions tuning in weekly, how debilitating are crime dramas to the integrity of the legal system in terms of suspect treatment, the case building process and trial length? This research examined how the legal system is portrayed on prime time network television crime dramas, and it compared the exaggerations presented in those dramas to real-life accuracies.

II. Literature Review

There has been little scholarly study done on the accuracy of how the legal system is portrayed on prime time network crime dramas in terms of suspect treatment, the case building process and trial length. Substantial research pertaining to the *CSI* Effect exists though. This phrase is used to define the impact crime dramas, such as *CSI: Crime Scene Investigation*, have on jurors' decision-making processes.⁸

Defining Crime and the Legal System

Though the definition of crime is subjective and evolving, for the purposes of this research, crime is defined as "an act committed or omitted, in violation of a public law, either forbidding or commanding it."⁹

The legal system, in this context, refers to secular rather than religious law. Secular law is created by human beings and refers to external actions performed by individuals that affect other individuals.¹⁰

The CSI Effect

*"This is the unpleasant reality of real crimes, the plot is unscripted, and no professional actors deliver the scenes."*¹¹

As crime dramas such as *CSI: Crime Scene Investigation* and *Law and Order* have grown in popularity, media have speculated millions of viewers have developed unrealistic expectations for the processes of evidence collection and presentation.

Each week, *CSI* draws in audiences averaging more than 10 million viewers.¹² In a typical episode, audiences see forensic technicians using advanced technological equipment to complete DNA and gunshot residue tests. Simultaneously, viewers watch as crime scene investigators work to put together the clues to solve the case in 45 minutes or less.¹³

Supposedly, because the forensic techniques and evidence illustrated on *CSI* are more reminiscent of science fiction than true practice, real-world jurors have developed "reasonable doubts" about defendants'

4 "CBS Primetime TV Schedule," CBS, n.d., <http://www.cbs.com/schedule/> (September 17, 2012).

5 "Schedule," NBC, n.d., <http://www.nbc.com/schedule/> (September 17, 2012).

6 "Schedule," USA, n.d., http://www.usanetwork.com/series/fairlylegal/theshow/episodeguide/episodes/s2_rippleofhope/index.html (September 30, 2012).

7 "Schedule," TNT, n.d., <http://www.tntdrama.com/schedule/?startDate=10/1/2012&timeZone=> (September 30, 2012).

8 Tamara F. Lawson, "Before the Verdict and Beyond the Verdict: The *CSI* Infection Within Modern Criminal Jury Trials," *Loyola University Chicago Law Journal* 41 (2009): 121.

9 *Black's Law Dictionary*, 2nd ed., s.v. "Crime."

10 *Legal Information Institute*, s.v. "Legal Systems."

11 Tamara F. Lawson, "Before the Verdict and Beyond the Verdict," 128-129.

12 "Top 20 Network Primetime Series: Oct. 8-14, 2012," *Nielsen Television (TV) Ratings for Network Primetime Series*, n.d., <http://www.zap2it.com/tv/ratings/zap-weekly-ratings,0,7508066.htmlstory> (October 23, 2012).

13 Kit R. Roane, "The *CSI* Effect," *U.S. News & World Report*, April 17, 2005, Tech section, 1-2.

guilt during trials.¹⁴ Reasonable doubt is defined as “doubt based on reason, a doubt for which [one] can give a reason.”¹⁵ After watching *CSI* episodes, jurors expect to see dynamic, “smoking-gun” evidence in real-world courtrooms; they are less willing to accept basic criminal trial evidence, and they grow disappointed when they are not involved in *CSI*-style investigations.¹⁶ According to Tamara Lawson:

These shows fail to present the reality of criminal investigations, such as crime lab backlogs and resource limitations, which real criminal investigators and litigators must surmount. A potential juror’s exposure to this distorted version of the prosecutorial process prior to jury service shapes his or her understanding and expectations.¹⁷

The *CSI* Effect has resulted in increased juror expectation levels,¹⁸ as jurors assume attorneys will prepare cases supported by advanced forensic evidence unreasonably quickly. In summary, “Jurors schooled in crime investigations through watching TV dramas expect prosecutors to show them sophisticated forensic evidence ... making it tough for the government to prove cases.”¹⁹

Only about 10 percent of all criminal cases go to trial and are decided by juries,²⁰ so those cases that do go to trial often carry the highest dangers and most severe punishments.²¹ For this reason, the consequences of the *CSI* Effect are serious, as false acquittals or wrongful convictions can majorly jeopardize the safety of communities as guilty individuals are released back into society and innocent people are erroneously put behind bars. For example, if jurors were biased in their considerations of evidence, a criminal defendant’s right to a fair trial would be jeopardized, and he or she might be found guilty of a crime he or she did not commit. As Lawson observed:

When factually innocent individuals are convicted due to the same type of juror confusion, a more severe injury to society occurs. Both mistakes jeopardize the legitimacy of the criminal justice system. However, wrongful convictions are inherently more repugnant to justice.²²

In the literature on the subject of inaccurate portrayals of the legal system on network television crime dramas, there are holes where suspect treatment, the case building process and trial length are concerned. This research looked to fill those gaps to see whether exaggerations and inaccuracies accompany the portrayal of these three themes. This research also sought to determine if previous conclusions concerning the inaccurate portrayal of forensics on network television crime dramas are valid in these areas.

One research question for this study is how debilitating are crime dramas to the integrity of the legal system in terms of suspect treatment, the case building process and trial length?

One hypothesis from this question is that tendencies of exaggeration and inaccuracy in prime time network television crime dramas exist through the portrayal of suspect treatment, the case building process and trial length. These inaccuracies and exaggerations lead viewers to misinterpret the processes of the United States legal system.

III. Methodology

To begin with, the television programs *The Good Wife*, *Law & Order: SVU*, *Fairly Legal* and *Major*

14 Tom R. Tyler, “Viewing *CSI* and the Threshold of Guilt: Managing Truth and Justice in Reality and Fiction,” *The Yale Law Journal* 115 (2006): 1052.

15 Young Lawyer’s Section, *Bar Association of the District of Columbia*, 4th ed., s.v. “Criminal Jury Instructions for the District of Columbia.”

16 Kit R. Roane, “The *CSI* Effect,” 1-2.

17 Tamara F. Lawson, “Before the Verdict and Beyond the Verdict,” 132.

18 Richard Willing, “‘*CSI* effect’ has juries wanting more evidence,” *USA Today*, August 5, 2004, News section, http://usatoday30.usatoday.com/news/nation/2004-08-05-csi-effect_x.htm (October 23, 2012).

19 Martha Graybow, “Prosecutors See ‘*CSI* Effect’ in White-Collar Cases,” *Reuters*, September 24, 2005, http://www.redorbit.com/news/general/250029/prosecutors_see_csi_effect_in_whitecollar_cases/ (October 23, 2012).

20 Nancy Jean King, “The American Criminal Jury,” *LAW & CONTEMP. PROBS* 62 (1999): 41, 59.

21 Tamara F. Lawson, “Before the Verdict and Beyond the Verdict,” 127.

22 Tamara F. Lawson, “Before the Verdict and Beyond the Verdict,” 124-125.

Crimes were selected to study. They were chosen because of their consistently large audiences and high ratings.²³ The fourth and seventh episodes of each television program's season broadcast within a one-year period were watched. Often times, the premier and finale episodes of a television program are more sensationalized or dramatic, so by selecting the fourth and seventh episodes within a program's season, this research avoided those extremes. The one-year period spanned from September 2011 to September 2012.

Through content analysis, each episode was analyzed and coded through its presentation of three themes: suspects' treatment, the case building process and trial length.

In terms of suspects' treatment, episodes were watched to determine whether the characters representing police officers, detectives or interviewers referred to the pre-trial interactions with suspects as interviews or interrogations. Historically, interviews produce voluntary statements while interrogations coerce confessions.²⁴ Further, it was noted whether or not police officers, detectives or interviewers physically harassed suspects while questioning them. Physical harassment can include such things as performing "threatening or intimidating actions, blocking a person's path with intent to intimidate or threaten, pushing, shoving or purposely bumping into a person and performing unwelcome touching, caressing or fondling."²⁵ Finally, it was noted whether or not police officers, detectives or interviewers presumed innocent suspects were guilty. According to Saul M. Kassin et al.:

That interrogation is by definition a guilt-presumptive process, a theory-driven social interaction led by an authority figure who already believes that he or she is interrogating the perpetrator and for whom a just outcome is measured by confession. In the case of innocent suspects, one would hope that investigators would periodically reevaluate their beliefs. Over the years, however, a good deal of research has shown that once people form an impression, they unwittingly seek, interpret and create behavioural data that verify it. This last phenomenon – often referred to as the behavioral confirmation bias – has been observed not only in the laboratory but in classrooms, the military, the workplace and other settings.²⁶

In terms of the case building process, each episode was watched to determine what type of attorney was building the case. Additionally, each episode was watched to determine how long it took an attorney to build his or her case. For a frame of reference, Casey Anthony's attorney, Jose Boaz, spent approximately three years preparing his defense case for Anthony's murder trial.²⁷

When considering the portrayal of trial length, it was noted whether or not the preliminary hearing, the arraignment, the discovery and motion practices, the plea bargain, the entry of plea and the trial were mentioned in the episodes. If a trial did occur, the episode was watched to determine how long the trial lasted, if a jury was present and if the defendant's sentencing was addressed. Though a particular trial may be longer or shorter than the average, a criminal trial typically lasts between five and ten days.²⁸

Episodes could be classified in one of two categories:

- Accurate: The episode portrayed the treatment of suspects, the case building process and trial length accurately based on real-world legal facts.
- Inaccurate: The episode exaggerated or inaccurately portrayed the treatment of suspects, the case building process and trial length in comparison to real-world legal facts.

Framing themes in the episodes will be noted. If accurate portrayals of suspects' treatment, the case building process and trial length are illustrated, the episode falls under a normal framing context. If any inaccuracies or exaggerations are presented, that frame is recorded.

23 "Top Tens & Trends of Television," *Nielsen*, August 20, 2012, <http://www.nielsen.com/us/en/insights/top10s/television.html> (September 30, 2012).

24 Saul M. Kassin et al., "Interviewing suspects: Practice, science, and future directions," *Legal and Criminology Psychology* 15 (2010): 39.

25 "Physical Harassment," *SC Budget and Control Board*, n.d., <http://ohrweb.ohr.state.sc.us/OHR/antiharassment/Page15.htm> (November 17, 2012).

26 Saul M. Kassin et al., "Interviewing suspects," *Legal and Criminology Psychology* 15 (2010): 41.

27 "Casey Anthony Trial: Timeline of Key Events in the Murder Trial of the Florida Mother," *ABC News*, July 6, 2012, <http://abcnews.go.com/US/casey-anthony-trial-timeline-key-events/story?id=13990853&page=3#>. UKhS94VrZr0 (November 17, 2012).

28 "Trial Juror's Handbook," *New York State Unified Court System*, n.d., www.nyjuror.gov (October 23, 2010).

IV. Findings

Eight episodes were coded in this study. Each episode aired during a one-year period spanning from September 2011 to September 2012. The episodes studied include *The Good Wife*'s "Feeding the Rat" and "Executive Order 13224," *Law & Order: SVU*'s "Double Strands" and "Russian Brides," *Fairly Legal*'s "Bo Me Once" and "Coming Home" and *Major Crimes*' "The Ecstasy and the Agony" and "The Shame Game."

In terms of suspects' treatment, only one episode, "The Shame Game," referred to pre-trial interactions with suspects as interviews. All others did not reference the interaction as an interview or an interrogation. "The Shame Game" was also the only episode to show police detectives physically harassing a suspect in the questioning room. However, six of the eight episodes showed instances where innocent suspects were presumed guilty. For example, in the *Law and Order: SVU* episode "Double Strands," suspect Gabriel Thomas is wrongly accused of being a serial rapist, and because of this false accusation, he attempts to commit suicide while awaiting his trial in prison. However, his identical twin, Brian Smith, is found to be the actual serial rapist at the end of the episode.

In terms of the case building process, two episodes assigned district attorneys to build the legal cases, while two had mediators, one a prosecutor and one a pro bono lawyer. The remaining two episodes did not specify what types of lawyers were building the cases.

Five of the eight episodes specified how long it took the attorney to build his or her case. In two episodes, the attorneys built their cases in one day. In one episode, a lawyer built her case in four days. It took an attorney three days to build her case in one episode, and in another, it took her months.

When considering the portrayal of trial length, only three of the eight episodes mentioned the preliminary hearing. One mentioned arraignment, one mentioned the discovery and motion practices, and five mentioned the plea bargain. Only one episode, "Coming Home," included a trial, but the trial only lasted one day, and there was no jury present in the courtroom. Three episodes mentioned the convicted criminals' sentencing, though two of those three did not show a trial or its preliminary processes. (For a full reference of the coding, see Appendix.)

V. Discussion and Conclusion

Through this study, it can be concluded prime time television crime dramas portray suspects' treatment fairly accurately, as the majority of the studied episodes showed police officers, detectives or interviewers professionally interviewing suspects. Additionally, the overwhelming majority of interviewers did not physically harass suspects in the questioning room. However, because many of the episodes included instances where innocent suspects were presumed guilty, there seems to be a disconnect between the fair treatment of suspects and the guilty statuses police officers, detectives or interviewers assign to them. This contradiction relates back to the literature, which states, "In the case of innocent suspects, one would hope that investigators would periodically reevaluate their beliefs. Over the years, however, a good deal of research has shown that once people form an impression, they unwittingly seek, interpret and create behavioural data that verify it."²⁹ It seems that although police officers, detectives and interviewers in television programs ask questions politely, they rarely reevaluate their initial impressions of suspects, which in turn results in several wrongful detentions.

Within this study, it can also be concluded prime time television crime dramas do not accurately portray the case building process. Because the majority of the episodes showed attorneys building their cases within five days, it seems crime dramas inaccurately depict the amount of time it takes attorneys to collect and review evidence, meet and interview their clients, research background information and select witnesses.

Finally, it can be concluded that prime time television crime dramas do not accurately portray trial length. Before a defendant reaches trial, he or she must attend a preliminary hearing, which requires the prosecutor and defense attorney to present evidence, challenge whether or not there is enough information to suspect a crime has been committed and argue whether the defendant committed the crime. If charges are brought forward, a defendant must then attend the arraignment where he or she is formally informed of

29 Saul M. Kassin et al., "Interviewing suspects," *Legal and Criminology Psychology* 15 (2010): 41.

the charges he or she is facing. Further, the defendant is given the opportunity to enter a plea. Then, the prosecutor and defense attorney must complete the discovery and motion processes, which require they both exchange information about the case. Finally, a defendant can submit a plea bargain, which means he or she agrees to plead guilty to the said charges in order to avoid trial. If and when a defendant does reach trial, a jury must be present unless the defendant has waived his or her right to a trial by jury or unless the case addresses a certain misdemeanor where a bench trial is more appropriate.³⁰ Because many crime dramas fail to mention or show any of these processes, it is clear they do not accurately present the length of a trial.

In essence, it can be concluded from this study that tendencies of exaggeration and inaccuracy in prime time network television crime dramas exist through the portrayal of suspects' treatment, the case building process and trial length. These inaccuracies and exaggerations lead viewers to misinterpret the processes of the United States legal system.

This study cannot make any generalized conclusions though. It only included episodes from four different crime drama television programs, so it cannot be applied to all crime drama television programs. Only two episodes per program were selected, so the results could have been different if other episodes within the same seasons had been selected. Further, this study cannot be used to describe *The Good Wife*, *Law & Order: SVU*, *Fairly Legal* or *Major Crimes* in respect to their accurateness as a whole—it can only be used to describe these television programs to a certain point within a specific time period. Because of these things, this study should serve as a pilot for a more extensive study concerning these issues.

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30 "What are some common steps of a criminal investigation and prosecution?" *National Crime Victim Law Institute*, 2012, http://law.lclark.edu/live/news/5498-what-are-some-common-steps-of-a-criminal/law/centers/national_crime_victim_law_institute/for_victims/answers/ (October 23, 2012).

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Young Lawyer's Section, *Bar Association of the District of Columbia*, 4th ed., s.v. "Criminal Jury Instructions for the District of Columbia."

Appendix: Coding sheets

Television Programs	Season	Title	Date	Question: Interview or inter
The Good Wife Episode 4	3	"Feeding the Rat"	16-Oct-11	Neither
The Good Wife Episode 7	3	"Executive Order 13224"	6-Nov-11	Neither
Law & Order: SVU Episode 4	13	"Double Strands"	12-Oct-11	Neither
Law & Order: SVU Episode 7	13	"Russian Brides"	9-Nov-11	Neither
Fairly Legal Episode 4	1	"Bo Me Once"	2/10/11	Neither
Fairly Legal Episode 7	1	"Coming Home"	3-Mar-11	Neither
Major Crimes 4	1	"The Ecstasy And The Agony"	3-Sep-12	Neither
Major Crimes 7	1	"The Shame Game"	24-Sep-12	Interview

Television Programs2	Suspect physically harassed	Innocent person presumed guilty	Type of at
The Good Wife Episode 4	No	Yes	Pro Bono, Leg
The Good Wife Episode 7	No	No	Prosecutor
Law & Order: SVU Episode 4	No	Yes	DA
Law & Order: SVU Episode 7	No	Guilty presumed innocent	N/A
Fairly Legal Episode 4	No	Yes	Mediator
Fairly Legal Episode 7	No	Yes	Defense, Med
Major Crimes 4	No	Yes	N/A
Major Crimes 7	Yes	Yes	DA

The Good Wife Episode 4	Three days	yes	No	yes
The Good Wife Episode 7	N/A	Yes	No	No
Law & Order: SVU Episode 4	N/A	No	Yes	No
Law & Order: SVU Episode 7	N/A	No	No	No
Fairly Legal Episode 4	Months	No	No	No
Fairly Legal Episode 7	Four days	Yes	No	No
Major Crimes 4	One day	No	No	No
Major Crimes 7	One day	No	No	No

Television Programs4	Plea bargain	Trial	Jury	Length of trial	Sentencing add
The Good Wife Episode 4	Yes	No	N/A	N/A	N/A
The Good Wife Episode 7	No	No	N/A	N/A	N/A
Law & Order: SVU Episode 4	Yes	No	N/A	N/A	N/A
Law & Order: SVU Episode 7	No	No	N/A	N/A	N/A
Fairly Legal Episode 4	Yes	No	N/A	N/A	N/A
Fairly Legal Episode 7	No	Yes	No	One day	Yes
Major Crimes 4	Yes	No	N/A	N/A	Yes
Major Crimes 7	Yes	No	N/A	N/A	No