

9-1-1987

Perry Mason Meets Sonny Crockett: The History of Lawyers and the Police as Television Heroes

Steven D. Stark

Follow this and additional works at: <https://repository.law.miami.edu/umlr>

Recommended Citation

Steven D. Stark, *Perry Mason Meets Sonny Crockett: The History of Lawyers and the Police as Television Heroes*, 42 U. Miami L. Rev. 229 (1987)

Available at: <https://repository.law.miami.edu/umlr/vol42/iss1/11>

This Special Issues and Topics is brought to you for free and open access by the Journals at University of Miami School of Law Institutional Repository. It has been accepted for inclusion in University of Miami Law Review by an authorized editor of University of Miami School of Law Institutional Repository. For more information, please contact library@law.miami.edu.

Special Issues and Topics

Perry Mason Meets Sonny Crockett: The History of Lawyers and the Police as Television Heroes

STEVEN D. STARK*

I. INTRODUCTION	229
II. THE DEPICTION OF THE LAW IN POPULAR CULTURE BEFORE TELEVISION: HOW DETECTIVES, COWBOYS, AND PRIVATE EYES DEFIED THE SYSTEM	235
III. HOW RADIO CHANGED CRIME SHOWS: THE POLICE BECOME HEROES	240
IV. PRIME TIME TELEVISION	242
A. <i>The Rise of Television: Dragnet and the First Television Police Heroes</i> (1947-1957)	242
B. <i>The Fall of the Police and the Rise of the Television Lawyer: Perry Mason,</i> <i>His Progeny, and the Rebellious 1960's (1957-1971)</i>	249
1. HOW HE AFFECTED THE CRIME SHOWS	249
2. HOW HE AFFECTED THE LAWYER SHOWS	253
3. THE EFFECTS	257
C. <i>The Return of the Police Shows: From Mod Squad to Kojak (1968-1976)</i> . .	259
1. THE ONSLAUGHT OF CRIME SHOWS	259
2. THE EFFECTS OF THE CRIME SHOWS	264
D. <i>Humanizing the Police and Lawyers: From Charlie's Angels to L.A. Law</i> (1976-1987)	268
1. THE CRIME SHOWS FADE AND RETURN	268
2. HOW DEMOGRAPHICS AND THE WOMEN'S MOVEMENT CHANGED CRIME SHOWS	271
3. HOW CRIME SHOWS AFFECTED PUBLIC OPINION	278
V. CONCLUSION	280

I. INTRODUCTION

On June 13, 1966, Chief Justice Earl Warren delivered his opinion in a case that Justice William Brennan declared "one of the most important . . . of our time."¹ The case was *Miranda v. Arizona*,² and its insistence that the police advise criminal suspects in custody of their right to counsel and to remain silent signaled the peak of the

* Lecturer on Law, Harvard Law School. This article was prepared under the auspices of Harvard Law School's Program on the Legal Profession; my thanks to Philip Heymann and the Program staff. A number of people assisted in the preparation of this article and deserve thanks: Sarah Wald, Peter Byrne, Alex McNeil, Joe Guberman, Amy Renkert, Gordon Platt, and Shirley Sagawa.

1. B. SCHWARTZ, *SUPER CHIEF: EARL WARREN AND HIS SUPREME COURT* 593 (1983).

2. *Miranda v. Arizona*, 384 U.S. 436 (1966).

Warren Court's efforts to ensure that the police treat defendants more fairly.

Less than a month earlier, on May 22, 1966, a lawyer with similar concerns about police practices had argued his last case in court. For the better part of a decade, this attorney had skillfully exposed the police as a group of well-meaning buffoons, who—procedural niceties notwithstanding—were so incompetent that they continually arrested the wrong suspects. But there was a key difference between Earl Warren and his litigating counterpart. Whereas Warren delivered his judgments a few times a year to a small audience of lawyers and reporters, who then carried his message to others, Perry Mason spoke directly to millions of Americans each week.

Did Perry Mason pave the way for the Warren Court's criminal procedure decisions? Though it would be preposterous to suggest that he did it singlehandedly, it would be equally foolish to pretend that he played no role at all. In 271 cases over ten years, before audiences of millions, Perry Mason presented a view of police and lawyers that, for better or for worse, did more to give people a sense of how the legal system operates than any law school course or grade school civics class. Put it this way: What would you think of a police force that always accuses the wrong suspects, or a district attorney who unquestioningly prosecutes them? Perry Mason, however, has not been the only television figure either to mock or praise the practices of the crime fighting establishment. For over forty years, Americans have been treated to a continuous series of nightly allegories about criminals, lawyers, judges, police, and detectives.

This article examines prime time television drama's preoccupation with the law and what it means. It begins with a major premise: Prime time television drama has the power to change—and has in fact changed—the public's perception of lawyers, the police, and the legal system. This is hardly a radical assumption. After all, television has transformed everything from the way we spend our leisure time to the way we elect our presidents;³ it would be shocking if this revolutionary force—watched by the average American over twenty-eight hours per week⁴—had not altered the law as well. Almost one-third of all prime time entertainment shows since 1958 have concerned law

3. See, e.g., E. DIAMOND & S. BATES, *THE SPOT* (1984); A. RANNEY, *CHANNELS OF POWER* (1983). For another recent article that argues that television has changed depictions of law, see MacCaulay, *Images of Law in Everyday Life: The Lessons of School, Entertainment, and Spectator Sports* (1986) (manuscript published by the University of Wisconsin).

4. See Traub, *Who Watches Television—and Why*, *CHANNELS*, Jan.-Feb. 1985, at 27; see also F. MANKIEWCZ & J. SWERDLOW, *REMOTE CONTROL* 254 (1978).

enforcement and crime,⁵ and nearly a third of the characters on prime time television are involved in either the enforcement or violation of the law.⁶ In a normal week, the average television viewer sees approximately thirty police officers, seven lawyers, and three judges in prime time,⁷ a figure that does not even include the large number of lawyers featured on popular daytime soap operas and syndicated courtroom dramas, such as *Divorce Court*, *The People's Court*, and *Miller's Court*. And with police, lawyers, and judges come crime. By the time the average American child is eighteen, he or she will see more than 18,000 murders depicted on television dramas.⁸

In a sense, there is nothing very new in the public's attraction to crime stories. Ever since Apollo successfully defended Orestes on a charge of matricide in Aeschylus' *Oresteia*, western audiences have been fascinated with the drama found in both crime and the judicial process.⁹ Moreover, the rise in the mid-nineteenth century of a new genre—the detective story—brought to popular culture a vast new form of melodrama about law and crime that Hollywood picked up and popularized in the early days of the film industry.

But once television arrived on the scene, it changed the genre forever. By the 1950's, the networks, forced to come up with over 2,000 hours of prime time programming per year for their new medium, turned to crime shows as the mainstay of their programming efforts, a trend that continues today. Furthermore, because television is able to reach into virtually every living room in America, these shows have had an impact that is unprecedented in the history of popular culture. According to one study, Americans receive ninety-five percent of their information about crime from the mass media.¹⁰ Time and again, researchers have shown that viewers take what they see on television to be the real thing.¹¹

Children, impressionable and among the principal viewers of the home screen, have been particularly affected by television's depictions

5. See A. McNEIL, *TOTAL TELEVISION, A COMPREHENSIVE GUIDE TO PROGRAMMING FROM 1948 TO THE PRESENT* (2d ed. 1980).

6. Dominick, *Crime and Law Enforcement on Prime-Time Television*, 37 PUB. OPINION Q. 241-42 (1973).

7. See Gerbner, Gross, Morgan & Signorielli, *Charting the Mainstream: Television's Contributions to Political Orientations*, 32 J. COMM. 100 (1982), noted in J. CARLSON, *PRIME TIME LAW ENFORCEMENT* 29 (1985).

8. See Zuckerman, *The Year of the Cop*, ROLLING STONE, April 21, 1977, at 56, 61.

9. See Winick & Winick, *Courtroom Drama on Television*, 24 J. COMM. 67 (1974).

10. See Graber, *Evaluating Crime-Fighting Policies: Media Images and Public Perspective*, in *EVALUATING ALTERNATIVE LAW-ENFORCEMENT POLICIES* 188 (R. Baker & F. Meyer eds., 1979); see also G. COMSTOCK, *TELEVISION IN AMERICA* 120-21 (1980).

11. See Gerbner, *Trial by Television: Are We at the Point of No Return?*, 63 JUDICATURE 416, 420 (1980).

of the legal system.¹² A recent poll revealed that seventy-three percent of those children surveyed could not cite any differences between judges depicted on television shows and those in real life.¹³ But it is not only the young whose views of the legal process are shaped by the television medium. Studies show that adults who watch significant amounts of television are much more likely than the rest of the population to overestimate the prevalence of crime.¹⁴ The pervasiveness of lawyers and crime on television has conceivably affected everything from the crime rate to the number of students applying to law school.¹⁵ Some college students may emulate Chief Justice Rehnquist, but probably a lot more would rather change places with Judge Wapner of *The People's Court*.

Like other forms of entertainment, what television touches it distorts, thus turning the serious business of adjudicating disputes into something more entertaining than it really is. And because of television's frequent depiction of the criminal justice system, it has had the opportunity to distort the law more than other subjects. Throughout its history, television drama has departed from reality in important and sometimes troubling ways. For example, television has significantly overestimated the murder rate, the proportion of crimes solved, the share of victims who are female, middle class, or white, and the percentage of criminals who are educated and financially well-off.¹⁶ Constitutional limitations on law enforcement, such as search warrants and *Miranda* rights, have been depicted as unnecessary hindrances to justice; after all, television suspects are almost always guilty. When constitutional violations occur on the home screen dozens of times weekly, they normally pass without comment.

On one level, television drama's fascination with the law is not hard to fathom. Legal stories are easy to tell within the time constraints imposed by television drama or news. They feature clear winners and losers, stock scenarios, compelling characters, and recognizable villains and heroes. Moreover, the moral imperatives and assumptions that television usually has injected into these melo-

12. *Id.*; see also G. COMSTOCK, S. CHAFFEE, N. KATZMAN, M. MCCOMBS & D. ROBERTS, TELEVISION AND HUMAN BEHAVIOR 444-47 (1978); Gerbner, Gross, Morgan & Signorielli, *Charting the Mainstream: Television's Contributions to Political Orientations*, 32 J. COMM. 100 (1982).

13. Gerbner, *supra* note 11, at 420.

14. See Gerbner, Gross, Eeley, Jackson-Beeck, Jeffries-Fox & Signorielli, *TV Violence Profile No. 8: The Highlights*, 27 J. COMM. 171 (1977).

15. The surge in law school applications and matriculation is documented. See A Review of Legal Education in the United States, Fall 1984 Law School and Bar Admission Requirements (American Bar Association 1985).

16. See Gerbner, *supra* note 11, at 419.

dramas—respect the law, good conquers evil, the system works—strike a responsive chord with corporate advertisers who sponsor network programming.

Yet on another level, television is a populist art form, a mirror of its audience. If television is obsessed with crime and the law, it is because Americans are obsessed with them as well. Part of that preoccupation is understandable, given the age-old Anglo-American preoccupation with a formal process for dispute resolution. But our traditional fascination with the figures who defy that orderly process surely has contributed to the popularity of the genre. “The nation’s history is . . . richly colored by a heritage of crime,” scholar David Marc has written. “The continuing glorification of laissez-faire competition and social Darwinist ideology . . . has fostered a heroic vision of the man of action that often engenders a benevolent indulgence of rule breaking.”¹⁷ In fact, the history of our popular culture reveals a continuing preoccupation with lawlessness, which by definition brings the role of law into virtually every story. Courtroom dramas, mystery dramas, and even that American pop myth, the western, are all allegories dealing largely with the role of law in society. “[D]espite their differences,” producer Herb Brodtkin of *The Defenders* once said, these shows “are really *ethical* shows—morality plays. The central conflict is always between good and evil.”¹⁸

Thus, for the last forty years, Americans have done more than simply watch television lawyers and policemen go through dramatic motions. Through television melodrama, they have been exposed to continual instruction about the role of the police, lawyers, and law in modern America. Moreover, because of television’s pervasive and powerful influence, these images of the law have not only reflected public opinion, but have determined it as well. That in turn has affected the legal system itself—through increased litigation and even the makeup of juries. Equally important, the distinct characteristics of television as a conservative, commercial medium of entertainment have helped shape public opinion on questions concerning crime and law enforcement.

There are at least two ways to write about popular culture, and more specifically, television. One approach might be called the “social scientific method.” This method often involves measuring the impact of television by analyzing empirical data gathered through extensive opinion polls, sometimes conducted by wiring viewers as

17. D. MARC, *DEMOGRAPHIC VISTAS* 66 (1984).

18. *TV GUIDE: THE FIRST 25 YEARS* 61 (J. Harris ed. 1978) (edited in association with the editorial staff of *TV Guide* magazine).

they watch shows. Whenever possible, I have tried to cite to such research when it exists and is relevant.

But there is not much empirical research about television, and much of the research that does exist is not very germane. That is because television, I think, is better understood by invoking the tools of literary or historical analysis. Trying to explain the impact of *Dragnet* or *Perry Mason* on the public is somewhat like trying to explain the historical significance of *Hamlet* or *Macbeth*. If you want to measure the impact of Shakespeare, do you wire people viewing his plays and do massive polling on the subject? Or, do you look at the plays themselves in their social and cultural contexts for clues as to how they might affect an audience? Though more subjective, I have usually chosen the latter approach. With television—or any art—the most meaningful path open to analysis is often to look speculatively at the text, or the painting, or the show. Although empirical analysis does have its place, even in the world of popular culture, if you want to know the real meaning of *Miami Vice*, you have to watch the show. And, I might add, respect it as well.

Thus this article is something of a personal history of the depiction of lawyers and the police on television. What the article suggests is that on television, lawyers are usually criminal lawyers. Because lawyers are often depicted as antagonists of the police, their shows tend to be popular in eras when the police are not. These eras, however, are few and far between. Throughout its history, television has generally taken the police—once objects of derision in popular culture—and turned them into heroes. This article is, in part, the story of both how that happened and what it has meant for the culture at large.

Thus the article will begin with a brief history of the depiction of the law in popular culture before television. What we will find is that in early popular stories and movies about detectives or cowboys, the legal establishment was traditionally treated with scorn. After a brief discussion of the treatment of the police and crime in radio drama, the article will turn to the history of prime time legal melodrama, from the earliest days of television to the present. What the article will show is both how and why the broadcast media changed the image of lawyers and law enforcers and thus helped to change the status of lawyers and the police in the culture itself. These shifts did not occur all at once. In the 1950's, largely under the influence of the popular series *Dragnet*, the police began to be depicted more favorably on television. In the rebellious 1960's, however, the police began to be portrayed more derisively again, and lawyers like *Perry Mason*

became the medium's principal crime-fighting heroes. It was not until the more conservative 1970's and the rise of blue-collar police heroes such as *Kojak* that television again began glorifying the exploits of the police. Though images of the police have changed superficially in the last decade—we now have *Cagney and Lacey* and *Hill Street Blues* rather than *Charlie's Angels* and *Starsky and Hutch*—the men and women in blue remain among television's favorite heroes. In forty years, it has been a remarkable transformation and a story worth recounting.¹⁹

II. THE DEPICTION OF THE LAW IN POPULAR CULTURE BEFORE TELEVISION: HOW DETECTIVES, COWBOYS, AND PRIVATE EYES DEFIED THE SYSTEM

It is impossible to understand the portrayal of the law²⁰ on television without first knowing how the law was depicted in popular culture before television. Television may be the latest and most powerful purveyor of popular art, but it is not the first. Before movies and radio, there were "pulp novels" and detective magazines, and long before those there were popular folk tales and ballads. Throughout the ages, in both literature and pop culture, the law has usually been discussed in the context of crime—a familiar topic in Greek and Roman tragedy,²¹ the Bible,²² and the plays of Shakespeare.²³ Yet lawyers do not appear often in literature; for every pop culture story about an attorney, there are many more about law enforcers. And until recently in Anglo-American pop culture, these stories contained an added twist that is significant for our purposes: crime often was

19. Much of the material in this piece is obviously based on thousands of hours spent watching television. Like my contemporaries, I grew up in front of the home screen. But I am also deeply indebted to a number of writers and scholars who have dealt with some of the subjects here before. See, e.g., H. CASTLEMAN & W. PODRAZIK, *WATCHING TV: FOUR DECADES OF AMERICAN TELEVISION* (1982); T. GITLIN, *INSIDE PRIME TIME* (1983); J. GREENFIELD, *TELEVISION: THE FIRST FIFTY YEARS* (1977); D. MARC, *DEMOGRAPHIC VISTAS* (1984); H. NEWCOMB, *TV: THE MOST POPULAR ART* (1974). The discerning reader will find their tracks throughout this article, though the interpretations are often my own. For another influential work that I relied on heavily, which deals with some of these findings from a more empirical perspective, see J. CARLSON, *PRIME TIME LAW ENFORCEMENT* (1985).

20. For our purposes, the law is construed broadly to include several related but distinct areas: the actual work that lawyers do, crime and criminals, law enforcement, and of course, trials. Thus the law comprises the work of outlaws as well as judges, of detectives as well as defense attorneys.

21. See generally *SENECA THE YOUNGER, THYESTES*; *OVID, METAMORPHOSES*.

22. See *Genesis* 4:8-15 (the story of Cain and Abel); *Exodus* 21 (the laws of the Hebrews); *Exodus* 20:2-17 (containing the Ten Commandments).

23. Shakespeare's, *Hamlet*, *Macbeth*, and *Othello* are illustrative. For a description of *Hamlet* as detective fiction, see Stein, *The Mystery Story in Cultural Perspective*, in *THE MYSTERY STORY* 33-37 (J. Ball ed. 1976).

romanticized, with the police (or their equivalent) treated as villains, not heroes.²⁴ A strong anti-authoritarian impulse runs throughout our popular culture.

Even in the early days of Anglo-American popular culture, in the ballads, songs, and tales of Medieval and Elizabethan England, wrongdoers were often depicted as romantic and heroic figures—the people's "Robin Hoods." To many scholars, this development is not difficult to understand because in those days, the law was an instrument of the crown, and the people frequently perceived it as the embodiment of oppression and injustice, and the protector of social privilege.²⁵ What is striking is how these attitudes continued to permeate popular culture long after the role of law enforcement changed.

Many American colonists, themselves the subject of religious or political oppression in their native lands, brought to the New World a similar distrust of legal authority. The colonies of Pennsylvania and Massachusetts banned lawyers for a time, and out on the frontier, it frequently was said, "we needed no law until the lawyers came."²⁶ According to many scholars, this ambivalence toward legal authority helped make the subject of crime America's "great imaginative obsession,"²⁷ and one of the principal themes of our popular culture. "If the United States could be said to have a national literature," critic Martin Williams has written, "it is crime melodrama."²⁸

Of course, there was also a historical basis for this preoccupation. In *The Six-Gun Mystique*, scholar John Cawelti described how containment of crime became one of the principal problems for the nation in its first century of existence.²⁹ As David Marc, another scholar, has noted:

[T]he nation's history is indeed richly colored by a heritage of crime, or at least legal ambiguity. . . . Nationhood itself was achieved through revolution—a blatant act of treason against the crown. . . . The willingness to break the treaties that established national hegemony on the frontier was at least as strong as the inclination to sign them. The romance of the escape to the garden

24. D. PORTER, *THE PURSUIT OF CRIME* 13 (1981); see also Stein, *supra* note 23, at 39. For a related compilation of films and TV shows that have depicted lawyers, see Mastrangelo, *Lawyers and the Law: A Filmography*, 3 *LEGAL REFERENCE SERVICES Q.* 31 (1983).

25. See D. PORTER, *supra* note 24, at 13, 147-48; Stein, *supra* note 23, at 39.

26. D. MELLINKOFF, *THE LANGUAGE OF THE LAW* 230 (1963).

27. J. CAWELTI, *ADVENTURE, MYSTERY, AND ROMANCE* 51 (1976); see also M. Greanander, *The Heritage of Cain: Crime in American Fiction*, *ANNALS*, Jan. 1976, at 47.

28. M. WILLIAMS, *TV: THE CASUAL ART* 121 (1982).

29. See J. CAWELTI, *THE SIX-GUN MYSTIQUE* (1970), noted in D. MARC, *supra* note 19, at 66.

has been tempered by a passionate fear of the swamp.³⁰

Still it takes more than a national mood to create a trend in popular culture; it also takes the existence of popular media, which not only galvanizes that national mood, but create new genres and products to appeal to the public. In the nineteenth century, these media tended to be "pulp" magazines and dime store novels. Chief among the genres these publications helped develop were the heroic tales of detectives, cowboys, and hard-boiled private eyes—men outside the formal criminal justice system who engaged in the pursuit of law-breakers. Though their roots are in an earlier age, all three of these characters survived the advent of television, and continue today.

What first brought a wave of stories about crime to the public in the mid-nineteenth century was a new literary form, the detective story. Featuring a formulaic and wildly romantic notion of crime detection, scholars often consider the detective story the product of several changes in the intellectual and social climate during the eighteenth and early nineteenth centuries.³¹ One was the emergence, in the wake of the great "revolutions," of freer, less class-conscious societies. This development enabled much of the public to view crime solvers as protectors—figures to be admired, rather than disdained. Another factor, commonly cited by literary historians, was the rise of the popular view that crime was the product of a calculating "criminal class," capable of being checked by the use of equally crafty professional crime solvers.³²

Yet while nineteenth century audiences grew to admire the detective as a crime solver, they retained many of their traditionally romantic images of criminals and negative images of the police. Auguste Dupin, America's first literary detective, for example, tracked down murderers, while outwitting the police.³³ In fact, most nineteenth century detectives, including the illustrious Sherlock Holmes, worked competitively against the police, implicitly demonstrating through their success the incompetence of society's official law enforcement establishment.³⁴ These detectives may have been protecting the public, but they operated much like the criminals they apprehended. They were calculating, often odd loners, *in* the world of law, but not *of* it.

30. D. MARC, *supra* note 17, at 66-67.

31. Stein, *supra* note 23, at 40.

32. *Id.*

33. *These Gunns for Hire*, TIME, Oct. 26, 1959, at 49; see E. POE, *The Murders in the Rue Morgue*, *The Purloined Letter*, and *The Mystery of Marie Roget*, in TALES (1929).

34. See A. DOYLE, *THE HOUND OF THE BASKERVILLES*; A. DOYLE, *A Study in Scarlet* in THE TALES OF SHERLOCK HOLMES (1906).

Moreover, even at this relatively early stage in the evolution of criminal fiction, the literary image of crime bore little resemblance to what was happening on the streets. Despite literary portrayals to the contrary, then as now, most crimes were less serious than murder, crimes were rarely solved by deduction, and most criminals were poor and uneducated.³⁵

The heyday of the early detective story lasted about fifty years, until the beginning of the twentieth century. By then, the public's continuing preoccupation with the literature of lawlessness had fueled a demand for new heroes who shared the detective's ambivalence to legal authority. That demand was filled by the rise of the western, popularized largely after the American West already had been won. This popularization was first accomplished through dime store novels and then through the 1902 publication of Owen Wister's popular book, *The Virginian*.³⁶ These stories, like their pop culture predecessors, presented to audiences easily recognizable allegories depicting the struggle of good versus evil. Like the detective hero, the cowboy has an attitude fundamentally antagonistic to legal institutions: justice is carried out in the western not through due process, but through the work of a single, highly individualistic sheriff or cowboy, who usually disdains the traditional mechanisms of the law.³⁷ Not surprisingly, cowboys were not the only heroes of the Old West: vigilantes like Jesse James and Billy the Kid were pop heroes too.

At precisely the same time that the western novel started to gain public favor, the film industry was evolving in Hollywood. These two developments complemented each other. The western novel offered the movies action, violence, and easily recognizable villains and heroes. The founders of the film industry were also westerners, conversant with the myths that they were creating. Thus, only a year after the publication of *The Virginian*, Hollywood made its first western, *The Great Train Robbery*, and did not stop for half a century. Until 1960, more than one quarter of all American-made movies were westerns.³⁸

Thanks to television and the movies, the western remains an integral part of popular culture today. The movies, however, never took to glorifying the police. Even today, its heroes are more often like the vigilante Dirty Harry and Marion Cobretti than society's official crime fighters. In fact, the most celebrated policemen in cinema his-

35. Stein, *supra* note 23, at 44-46.

36. O. WISTER, *THE VIRGINIAN* (1902).

37. J. CAWELTI, *supra* note 29, at 77-78.

38. Stark, *America is Back—So is the Western*, Boston Globe, March 10, 1985, at A17.

tory are probably the bumbling Keystone Cops. "The movies rarely originat[ed] any police figures; except comic ones," wrote sociologist Reuel Denney.³⁹ Early cinematic portrayals of the police so upset the International Association of the Chiefs of Police that they passed a resolution at their 1913 meeting, pledging to do as much as possible to change those depictions.⁴⁰

By the 1920's, American popular culture had developed yet another crime-fighting hero with an ambivalent attitude toward legal institutions—the tough-talking private eye. Popularized in both fiction and film through characters like Sam Spade,⁴¹ Philip Marlowe,⁴² and Mike Hammer,⁴³ scholars often have seen these heroes as an American synthesis of Sherlock Holmes and the cowboy.⁴⁴ Like Holmes, they are lonely outsiders, standing apart from the legal establishment. "You're a cop, Pat," Mike Hammer tells Police Captain Pat Chambers in *I, The Jury*. "You're tied down by rules and regulations. There's someone over you. I'm alone."⁴⁵

The hard-boiled private eye is also a breed apart from Doyle's hero, more distinctly American than British.⁴⁶ Unlike Holmes, his work is less deductive, and more physical than intellectual. He relies on instinct and action; like a western, the plot fittingly ends with a violent confrontation between the hero and villain (though the private eye's domain is the city, not the rural frontier).⁴⁷ Like cowboys, private eyes eschew material gain, value honor and integrity, and frequently criticize the crime-fighting establishment as incompetent and corrupt. For example, in *The High Window*, Marlowe says to a policeman, "Until you guys own your own souls you don't own mine Until you guys can be trusted every time . . . to seek the truth out . . . I have a right to listen to my own conscience."⁴⁸ "It is reason-

39. Denney, *The Plainest Plain-Clothesman*, NEW REPUBLIC, Jan. 31, 1955, at 14.

40. See R. FOGELSON, *BIG-CITY POLICE* 65, 112-13 (1977).

41. See generally D. HAMMETT, *THE GLASS KEY* (1931); D. HAMMETT, *THE MALTESE FALCON* (1930); D. HAMMETT, *RED HARVEST* (1929).

42. See R. CHANDLER, *THE BIG SLEEP* (1939); R. CHANDLER, *FAREWELL, MY LOVELY* (1940); R. CHANDLER, *THE HIGH WINDOW* (1942); R. CHANDLER, *THE LADY IN THE LAKE* (1943).

43. See M. SPILLANE, *MY GUN IS QUICK* (1952); M. SPILLANE, *I, THE JURY* (1975); M. SPILLANE, *VENGEANCE IS MINE* (1942).

44. See D. PORTER, *supra* note 24, at 170-72.

45. M. SPILLANE, *I, THE JURY* (1952), noted in Shayon, *The Corporate Private Eye*, SATURDAY REV., Aug. 8, 1959, at 29.

46. See Grella, *The Hard-Boiled Detective Novel*, in *DETECTIVE FICTION: A COLLECTION OF CRITICAL ESSAYS* 103 (R. Winks ed. 1980).

47. *Id.* at 112-13; see D. PORTER, *supra* note 24, at 196-98.

48. R. CHANDLER, *THE HIGH WINDOW*, noted in *DETECTIVE FICTION*, *supra* note 46, at 111.

able to suppose," Reuel Denney has written, "that the Hammet private detective, who was sensitive to industrial injustice, was a kind of Robin Hood of the Depression"⁴⁹

What both the western hero and the private eye shared, of course, was the traditional American distrust of formal legal authority. One might think that this anti-establishment outlook would also have come to permeate the early crime shows of the new medium, which made its debut after World War II. But it was not long before television producers changed that rebellious attitude. After all, radio programmers had done the same before them.

III. HOW RADIO CHANGED CRIME SHOWS: THE POLICE BECOME HEROES

In a sense, much of the early history of television, and its depiction of crime, was only a large-scale rerun of what happened to radio programming from 1930 to 1950. Like television, commercial radio was drawn to crime drama from its inception: by 1945, there was an average of ninety minutes of crime shows broadcast daily, each with an audience of over five million listeners.⁵⁰ According to radio historian J. Fred MacDonald, besides being popular, detective dramas were attractive to sponsors because they were inexpensive to produce. Although these shows were compelling, well written, and dramatic, they did not require the presence of an expensive "big name" like Jack Benny or Eddie Cantor to draw ratings.⁵¹

The crime genre began on radio in the early 1930's with dramatizations of the adventures of "print" heroes like Sherlock Holmes, Sam Spade, and comic book detective Dick Tracy. But soon, radio developed its own roster of crime fighters like Mr. Keen (*Tracer of Lost Persons*), Lamont Cranston (*The Shadow*), Michael Lanyard (*The Lone Wolf*), Pat Novak, Dyke Easter, and The Green Hornet (who fought crime as a newspaper publisher). Like their literary and cinematic counterparts, many of these detectives battled crime while competing with the police. Pat Novak constantly fought with Police Lieutenant Hellman, a man he described as so heartless that "he wouldn't give his wife an aspirin if she had concussion of the brain."⁵² As MacDonald wrote in his seminal history of radio broadcasting:

[M]any private detectives and amateur sleuths exhibited a distaste for police officers. This caustic relationship ranged from sarcasm

49. Denney, *supra* note 39, at 14.

50. See J. MACDONALD, DON'T TOUCH THAT DIAL! 155 (1979).

51. See *id.* at 155-56.

52. *Id.* at 189.

to open contempt. Such tension usually emanated from the rivalry of the two investigatory units seeking a solution to the same crime. Mike Waring, the Falcon, carried on a wise-cracking feud with both a lieutenant and a sergeant on the police force. . . . Richard Diamond . . . possessed a mocking disdain for all police officials. . . . Britt Reid—who was publisher of *The Daily Sentinel* as well as being the vigilante, the Green Hornet—often came into contact with the local police. In several broadcasts this antagonism resulted in warrants for the arrest of the Hornet, or in the police chasing the hero through the city at high speeds.⁵³

In a major shift, however, radio programmers also began creating a number of crime-fighting heroes whose sympathies lay with the legal establishment. One such show was *The Eno Crime Club* (Eno was the sponsor), premiering in 1931. On *The Eno Crime Club*, viewers on Tuesday night were given clues, and were challenged to solve a mysterious crime. The following night, the announcers, fictional police investigators Spenser Dan and his sidekick, Dan Cassidy, would go over the clues and reveal the perpetrator.

At about the same time, *True Detective Mysteries*, another popular show, was ending each program with the description of an actual wanted criminal. By the mid-1930's, radio had developed a number of shows that dramatized real police cases, such as *Homicide Squad*, *Calling All Cars*, and *Treasury Agent*. Lawyers now occasionally joined the fight against crime on shows such as *Mr. District Attorney*, one of the nation's most popular radio series in the 1940's. The FBI also used radio dramas to build trust in public law enforcement. J. Edgar Hoover himself once said that such broadcasts "will enable . . . [people] to know more about how to cooperate with your local police officials and every branch of law enforcement in your community."⁵⁴ The opening of another drama, *Twenty-First Precinct*, began:

Most of the 173,000 people wedged into the nine-tenths of a square mile between Fifth Avenue and the East River wouldn't know if you asked them that they lived and worked in the Twenty-First. Whether they know it or not, the security of their homes, their persons and their property is the job of the men of the Twenty-First Precinct.⁵⁵

Again, MacDonald has demonstrated how these shows exercised a powerful influence in maintaining popular faith in vital American institutions. From such a feeling grew trust and support for all levels of legal organization. This was a singularly important

53. *Id.* at 179.

54. *Id.* at 170.

55. *Id.* at 183.

result, for in the 1920's many police agencies had lost the public's confidence due to the scandals involving inefficiency, bribery, and collusion with criminals. . . . [B]eginning in the 1930's, by means of the most popular entertainment medium, the mass of American citizens began hearing of the heroic undertakings of private and public investigative agencies.⁵⁶

After World War II, radio programmers such as Jack Webb, creator of the earlier *Pat Novak for Hire*, began developing a group of new, realistic police heroes to sell to the public. Most only stayed on radio for a few years, however, and some never made it on the air at all. The problem was not that sponsors or audiences did not like the shows; they loved them. But by this time, programmers could make more money and reach more people through the new medium sweeping the nation. The television age had begun.

IV. PRIME TIME TELEVISION

A. *The Rise of Television: Dragnet and the First Television Police Heroes (1947-1957)*

When television first came on the scene in the late 1940's and early 1950's, it turned to both western and private eye stories, two genres with proven track records in radio, the movies, as well as in fiction, for much of its dramatic programming. "Criminality is still the backbone of broadcasting,"⁵⁷ wrote critic Charles Morton in the *Atlantic Monthly* in 1951. On one level, the reason why is obvious. Crime shows were popular, and attracting the largest possible audience is the goal of almost every television and radio show. Yet there was more to it than that. Thirty or sixty minutes is not much time for dramatic complexity, and crime shows and westerns offered proven formulas. Television drama, with little time for character development, demanded that problems be solved through action. By nature, westerns and crime shows were able to supply an abundance of action without requiring much in the way of expensive special effects. Crime shows and westerns also provided an acceptable opportunity to show violence, a traditional calling card of television entertainment because violence forces audiences to stop and watch.⁵⁸

Television's growing reliance on the weekly series as its regular

56. *Id.* at 171.

57. Morton, *Accent on Living*, ATLANTIC MONTHLY, Sept. 1951, at 87.

58. See E. BARNOUW, TUBE OF PLENTY 215-16, 260-65 (1975); see also Baldwin and Lewis, *Violence in Television: The Industry Looks at Itself*, in 1 TELEVISION AND SOCIAL BEHAVIOR 290 (G. Comstock & E. Rubinstein eds. 1972); Giles, *A Structural Analysis of the Police Story*, in S. KAMINSKY, AMERICAN TELEVISION GENRES 80-81 (1985).

form of entertainment, as with radio before, also caused the industry to favor shows about law and crime. When former ABC chief Fred Silverman was asked why all of his series were about policemen or doctors, he replied, "What are they going to be? Architects? What will happen to them?"⁵⁹ "You could do a show about a dentist," Frank Price, the president of Universal Television once said, "but that would lack credibility." The audience might buy the dentist in a melodramatic situation one week, but the next week, when he was in a melodramatic situation again, they'd say, "What? The same dentist?"⁶⁰ Television drama was designed to keep an audience sitting by the television week in and week out, requiring a constant level of excitement that only a few genres could provide.⁶¹ Producers also were attracted to detective stories because, as mysteries, they required a strong degree of audience participation, an important attribute for advertisers who want to keep viewers involved and interested.

Yet over time the requirements of commercial television would alter the traditional anti-establishment nature of westerns and private eye stories, and radically change popular culture's disdain for the law enforcement establishment. As television historian Eric Barnouw has written, with much of the complexity gone, television drama "rarely invited the viewer to look for problems within himself. Problems came from the evil of other people, and were solved . . . by confining or killing them."⁶² "Television detectives," critic Roger Rosenblatt once wrote, "do not detect anything but are instead beleaguered warriors, contending with worlds of mass evil."⁶³ Pop culture, as a rule, deals in enormous simplifications, but television, as radio had begun to do before it, would trade in one set of simplifications for another.

On television, the western rose and fell rather quickly. In the summer of 1959, there were more than twenty-eight westerns on prime time;⁶⁴ fifteen years later, overexposed and overdone, there was one, *Gunsmoke*. But programs concerning crime—private eye shows, police shows, even shows about lawyers—continued to flourish, affecting the largest audiences in history.

The size of those audiences enabled television to make an unprec-

59. J. GREENFIELD, *supra* note 19, at 148.

60. Zuckerman, *supra* note 8, at 57.

61. See E. BARNOUW, *supra* note 58, at 214. For other explanations of the determinants of television entertainment, see M. CANTOR, *PRIME-TIME TELEVISION* (1980); J. CARLSON, *supra* note 19, at 32-33; Gitlin, *Prime-Time Ideology: The Hegemonic Process in Television Entertainment*, 26 *SOC. PROBS.* 251 (1979).

62. E. BARNOUW, *supra* note 58, at 214.

63. Rosenblatt, *Kojak*, *THE NEW REPUBLIC*, Mar. 8, 1975, at 30-31.

64. See Stark, *supra* note 38, at A17.

edented impact. A movie does well today if it draws fifteen million viewers during its run. The best-selling author of 1985, Lee Iacocca, sold several million copies of his autobiography. The top radio shows of the 1940's drew about five million. Contrast those figures with a typical weekly episode of *The Cosby Show*, which often draws over 50 million viewers. Remember too that viewers of a weekly series watch it again and again, reinforcing the impact.

Over the next forty years, there were over 500 prime time television series dealing with the law.⁶⁵ The whole process began with live programs such as *The Plainclothesman* in 1949, followed by *Martin Kane*, *Private Eye*, which premiered the same year, and *Man Against Crime*, starring Ralph Bellamy as a New York City detective. What are today's programming clichés were then radical innovations. "It has been found that we retain audience interest best when our story is concerned with murder," the writers for *Man Against Crime* were told. "Therefore, although other crimes may be introduced, somebody must be murdered, preferably early, with the threat of more violence to come."⁶⁶ Despite the increase in violence, however, few of these early shows were significantly different in tone from the past pop culture treatment of the law, and none achieved more than modest success. Then, in December of 1951, came television's first great crime hit, *Dragnet*—a drama whose hero was a hard-working cop.

"*Dragnet* was not merely a hit," scholar David Marc has written, "It was an ideology . . ." ⁶⁷ *Dragnet* bestowed mass legitimacy and status to jobs within the law enforcement establishment by being one of the first shows to alter radically the traditional pop culture depiction of the law. The show was so different from traditional private eye dramas that CBS executives turned the series down on radio because it "didn't resemble Sam Spade enough."⁶⁸ *Dragnet* told broadcast audiences that "the authority legally constituted with the police is the proper authority to be used in the detection of criminal action."⁶⁹ Jack Webb played *Dragnet*'s hero, Joe Friday, and as he explained every week, "My name's Friday. I carry a badge."

Friday would even make the cover of *Time* in 1954.⁷⁰ Unlike the traditional private eye, who usually chased alcohol, women, and

65. Here we cannot review every show, so we will examine those few that stand out as breakthroughs, worthy of close scrutiny.

66. Rosenblatt, *supra* note 63, at 57, 59.

67. D. MARC, *supra* note 19, at 74; see also *Dragnet Catches 38 Million Viewers*, in TV GUIDE: THE FIRST 25 YEARS 20 (J. Harris ed. 1978).

68. Jack, *Be Nimble!*, TIME, Mar. 15, 1954, at 47, 54.

69. H. NEWCOMB, *supra* note 19, at 93.

70. Jack, *Be Nimble!*, *supra* note 68, at 1, 47.

wrongdoers, roughly in that order, Friday seemed to have no personal life and no interests other than police work, even announcing to the audience the exact time of day he undertook certain tasks: "It was 3:55. . . . We were working the day watch out of homicide."⁷¹ He served the public, not private clients, and there were other changes too: Unlike most private detectives, Friday worked as part of a team, setting the model for scores of TV sleuths to follow. To add realism, the show was filmed outdoors and presented as a documentary, replete with police lingo ("Book him on a 358") and beginning each week with the announcement, "The story you are about to see is true. Only the names have been changed to protect the innocent."

Like other pop culture sensations, the show's impact was immediate: even the series' "Dum-da-dum-dum-da" theme song made the *Hit Parade*. But the ideological impact was even more striking. "The flood of *Dragnet* fan mail suggests that the U.S. completely forgets that it is a nation of incipient cop haters," said *Time* magazine in their 1954 *Dragnet* cover story. "[I]t [the country] has gained a new appreciation of the underpaid, long-suffering, ordinary policeman, and [has gained] its first rudimentary understanding of real-life law enforcement."⁷²

Why was television improving the image of the policeman? The reasons help explain a lot about the evolution of programming over the subsequent decades. Like so much else in television history, *Dragnet*'s popularity was partly a case of Jack Webb being in the right place at the right time: sympathetic to the work of the police, he filled a programming vacuum with a well-directed, compelling series. Part of the show's success was also indirectly due to time constraints imposed by the broadcast industry. Private eyes, as typecast as they had become in the movies, tend to be more complicated heroes than your stereotypical policemen, and thus harder to depict in a thirty- or sixty-minute show.

Changing attitudes and demographics also contributed to *Dragnet*'s popularity. Reuel Denney wrote in 1955:

It is reasonable to guess that the "low pressure" cop represented in *Dragnet* is symbolic of the new alliance between the lower class and the white-collar class suggested by analysis of the Eisenhower victory in the 1952 elections. Hostility to the police is one of the social habits given up by the lower economic classes as they increase their identification with the middle class.⁷³

71. H. NEWCOMB, *supra* note 19, at 92.

72. Jack, *Be Nimble!*, *supra* note 68, at 47.

73. Denney, *supra* note 39, at 14.

This also illustrates the beginning of a close relationship between television and societal trends. As well as reflecting changes in public moods, television shows reinforce and legitimize new sentiments and social mores.

Yet clearly, the status of television and radio as commercial media also played a major role in the crime shows' shift in emphasis. Most companies that do business in popular culture, such as film or record companies, understand that they are primarily in the business of responding directly to popular taste, no matter where those sentiments lead. In broadcasting, however, there is a key intermediary, the sponsor, who controls all air time, either directly or indirectly. *Dragnet*'s portrayal of the police undoubtedly warmed the hearts of advertisers, who found a pro-establishment sentiment more in keeping with their conservative political views.

Even more important than politics, however, police dramas offered a sense of security to their audiences. In theory, that made them better consumers, which from a sponsor's view is the real purpose of all programming. Think about it: A private eye show, no matter how admirable its hero, leaves the audience with the impression that the system, police included, is corrupt and incompetent. An audience who believes that message is often in no mood to buy. Television cop shows, however, leave no such loose ends. In plain terms, a secure audience buys more Drano, Crest, and Miller Beer than an insecure one. Consequently, the new crime shows and commercial television were a perfect match.

As it turned out, the sense of security fostered by these shows was not well founded. Whatever the crime rate was before *Dragnet*'s success, it was worse after crime shows began to appear on television. According to one study, the larceny rate in the early 1950's rose strikingly in a number of cities as these communities gained access to television.⁷⁴ Researchers offered two explanations. A few said that television's emphasis on crime was teaching would-be criminals how to become better lawbreakers. Others postulated that television's glorification of upper-class lifestyles was inciting the poor to steal from the rich.⁷⁵ Moreover, by 1954 one researcher already had found that the depiction of crime and crime fighters on television was frequent and highly stereotyped: Twenty percent of all television characters were lawbreakers, and nonwhites, rarely appearing as law enforce-

74. Hennigan, Heath, Wharton, Del Rosario, Cook, Calder, *Impact of the Introduction of Television on Crime in the United States: Empirical Findings and Theoretical Implications*, 42 J. PERSONALITY & SOC. PSYCHOLOGY 461, 473 (1982).

75. *See id.* at 461, 474-75.

ment officers, almost always appeared as criminals.⁷⁶ By 1952, there were twenty-nine cop shows on the air, and in January of 1954, *Time* magazine already could assert: "More people are killed each year on TV's crime shows than die annually by murder and non-negligent manslaughter in the six largest cities of the U.S. But, in one respect, television has a better record than the nation's police: every TV law-breaker pays the penalty for his crime."⁷⁷

Yet one other thing was clear: These shows drew audiences. And like many successful television shows, *Dragnet* spawned immediate imitators, slowly adding to popular culture's new celebration of traditional law enforcement. There was *Mr. District Attorney*, the former radio hit, "champion of the people, defender of truth, guardian of our fundamental rights to life, liberty, and the pursuit of happiness." There was also Broderick Crawford as Captain Dan Matthews in *Highway Patrol* ("ten-four and out"), which preached about traffic safety on our western highways, *Harbor Command*, billed as "true-to-life stories of America's Harbor Police," and *Treasury Men in Action*. These were followed in the late 1950's by *Naked City* ("There are eight million stories in the Naked City. This is one of them."), and the violent but popular *Untouchables*, narrated by Walter Winchell and glorifying the exploits of G-Man Eliot Ness. Perhaps the eeriest *Dragnet* imitation was a CBS radio show, *Night Watch*, which featured actual recordings of police cases, taped by a reporter travelling with the Culver City Police Department. The silliest imitation, undoubtedly, was ABC's *The Mail Story*, based on the case files of the United States Postal Service.

As discussed previously, these depictions of the police were in part a reflection of reality.⁷⁸ From 1930 to 1970, police departments across the country had undergone major reforms. In reaction to scandals, public criticism, and their own desire to uplift their social standing, the police had become more professionalized, placing a higher priority on fighting crime, as opposed to keeping the peace. Yet it is also true that these reform efforts were not solely responsible for improving the public's view of the police. Instead, it was television that played a major role in upgrading the image of the police. In 1947, according to the National Opinion Research Center, the public ranked the police fifty-fifth out of ninety occupations in esteem, above

76. See generally Head, *Content Analysis of Television Drama Programs*, 9 Q. FILM, RADIO & TELEVISION 175 (1954).

77. *Dead on Arrival*, TIME, Jan. 25, 1954, at 47, 48. For another consideration of the police shows that followed *Dragnet*, see Robards, *The Police Show*, in TV GENRES 14 (B. Rose ed. 1984).

78. See R. FOGELSON, *supra* note 40, at 11.

mail carriers and carpenters, and right below insurance agents and traveling salesmen.⁷⁹ By 1963, the police had moved up to forty-seventh, now ahead of reporters, insurance agents and traveling salesmen, as well as radio announcers and managers of small stores.⁸⁰ A small jump perhaps, but in this sixteen year period, it was one of the biggest gains for any occupation, exceeded or equaled only by nuclear physicists, local labor leaders, and chemists. More important, it was a move which would be repeated in the 1970's and 1980's.

By the late 1950's, the networks began to use pseudorealistic crime dramas like *Dragnet* as an excuse to show an increasing amount of sex and violence. In shows like *Target: The Corrupters*, audiences were treated to a weekly barrage of gunplay and bloodshed that transcended even the minimal bounds of television morality. As Quinn Martin, producer of *The Untouchables*, wrote in an office memo, "I wish we could come up with a different device than running the man down with a car, as we have done this now in three different shows. I like the idea of sadism, but I hope we can come up with another approach for it."⁸¹

What finally altered this genre were several teleplays so outrageous that they triggered congressional investigations into television violence. On one notable episode of *Bus Stop*, an anthology series, the rock singer Fabian played a murderer who escaped being convicted by having an affair with the district attorney's wife and then blackmailing him. Once released from prison, the killer murdered his lawyers, and was in turn shot by his former lover. "I looked at it," said Senator John Pastore of Rhode Island, "and I haven't felt clean since."⁸²

Still television, like public opinion, is not a static force. Ideas and attitudes change, as do the shows. Nor is television a monolithic medium, for it presents a diverse combination of genres, personalities, and concepts. Its history does not unfold according to a perfect chronology: Some innovations take years to develop, and in the meantime, older trends continue. Thus, even though *Dragnet* set the stage for a change in public perceptions by creating the image of the policeman as a hero on television, it took several decades for its influence to be felt completely. Many crime shows of the 1950's and 1960's continued to depict crime fighters as rebellious private eyes, rather than policemen. To be sure, policemen were looking better than before. But times were changing: In the early 1960's, they

79. *Id.* at 234.

80. *Id.* at 235.

81. Shayon, *Morality Building with the FBI*, SATURDAY REV., July 30, 1966, at 42.

82. H. CASTIEMAN & W. PODRAZIK, *supra* note 19, at 152.

would be nothing compared to Perry Mason, the man who would become the most celebrated lawyer in history.

B. *The Fall of the Police and the Rise of the Television Lawyer:
Perry Mason, His Progeny, and the Rebellious 1960's
(1957-1971)*

1. HOW HE AFFECTED THE CRIME SHOWS

Perry Mason, who made his television debut in 1957, was a pivotal figure in the television medium's development of the crime-fighting hero. Though as an attorney he was a member of the legal establishment, Mason combined the private eye's distrust of established institutions with a few of Joe Friday's traits: persistence, lack of interest in women, and that most important trait, a job within the established legal system. He was also a stylistic throwback. In the earliest days of television, the networks had introduced several courtroom dramas because they were relatively cheap and easy to produce. But as the sets moved outdoors, studios abandoned lawyer shows.⁸³

To describe *Perry Mason* as formulaic is an understatement. Each episode would open with a crime, usually a murder, which was then investigated by Lieutenant Arthur Tragg and the Los Angeles Police Department. The clues invariably would point to one frightened suspect (in this show, always a middle-class white person), who claimed to be innocent and inevitably became Mason's client. Through a series of investigations, Mason, aided by his able secretary Della Street ("It's for you, Perry") and detective Paul Drake, would gradually unearth a web of motives that could have led any of several characters to commit the crime. At the preliminary hearing—always the last fifteen minutes of the show—earnest prosecutor Hamilton Burger would appear, at first, to be on his way to an easy conviction of Mason's client. But then Mason would produce a string of witnesses whose testimony eventually forced the real culprit to confess in the courtroom. In the final scene, Mason would sit in his office with Street, Drake, and the grateful client and explain how he solved the crime.

Star Raymond Burr would claim that the show promoted "the true meaning of the law."⁸⁴ But there were other messages as well. The series presented an odd vision of the Los Angeles police, depicting that L.A.'s finest could never manage to arrest the right suspects. Yet the show created an even odder picture of an attorney's job, for

83. See *id.* at 122.

84. TV GUIDE: THE FIRST 25 YEARS, *supra* note 18, at 113.

Mason was actually a private eye masquerading as a lawyer. He did no library research and conducted no formal discovery. He seemed to practice no actual law, save for the preliminary hearings where he always extracted a confession from the guilty party, while District Attorney Burger raised evidentiary objections such as, "irrelevant and immaterial, your honor." Occasionally, Mason was not above violating the law himself, illegally breaking into houses in the zealous pursuit of his client's interests. He spent half of his time investigating crimes, and half reassuring his client (he seemed to represent only one person at a time). Thus, Mason was not only the lawyer as detective, but also the lawyer as friend, displaying a kindly demeanor that until now had been absent from other crime-fighting heroes. Mason was not only competent like Joe Friday, he was a nice guy too.⁸⁵

He was also one of television's first heroes with a postgraduate degree, a role model for the highly educated baby boomers growing up with television. In the world of Perry Mason, fighting crime was not only heroic, it was respectable work for the upper middle class. It apparently paid well too, though money was rarely mentioned: Mason had a secretary, drove a Cadillac, and his well-furnished offices were in downtown Los Angeles. Contrast that with the sleazy headquarters of Sam Spade, or even Joe Friday, who worked in a crowded police station.

The show's uplifting effect on the image of lawyers came at the expense of the public perception of law enforcement, for Mason's implicit ridicule of the police had an effect on both television programming and viewers. Despite the earlier influence of *Dragnet*, as the 1950's turned into the rebellious 1960's, television followed Mason and his pop culture disciples. For much of the decade, it continually mocked the wayward ways of the crime-fighting establishment and even the law itself. These shows, observed *Time* magazine in 1958, "seem to suggest that 1) any citizen would be stupid to leave an important matter to the police, and 2) a little misdemeanor can be a good thing if applied in a good cause."⁸⁶ The series that followed *Perry Mason* often gave viewers the strong impression that the police never knew what they were doing. *Burke's Law* portrayed a woman-chasing Los Angeles Police Chief; *Car 54 Where Are You?* was a situation comedy devoted to chronicling police incompetency with a theme song that went:

There's a hold-up in the Bronx;

85. For other and related considerations, some forming the basis of this section, see H. NEWCOMB, *supra* note 19, at 94-100.

86. *The Snoopers*, TIME, May 26, 1958, at 60.

Brooklyn's broken out in fights;
 There's a traffic jam in Harlem that's
 backed up to Jackson Heights;
 There's a scout troop short a child;
 Khrushchev's due at Idelwild;
 Car 54, Where are You?⁸⁷

Even *The Fugitive*, a popular 1960's show that highlighted wrongly convicted prison escapee Richard Kimble's weekly search for his wife's real killer (the "one-armed man"), was based on the premise that the police were ineffectual. When series hero Dr. Kimble (not the police) finally caught the actual perpetrator in 1967, ending this weekly series of police paranoia, over fifty percent of all Americans watched the episode. "Tuesday, August 29, 1967," intoned announcer William Conrad in the series' last line, "The day the running stopped."⁸⁸ Other shows openly ridiculed the system itself. On one episode of *Maverick*, the jury decided if a man was innocent or guilty by cutting a deck of cards.

Meanwhile, the few crime shows left began to tilt toward defendants, incorporating *Miranda* warnings and other procedural protections within the dramas. New York policemen at the time liked to tell the story of the suspect who was arrested and yelled,

"'You don't have probable cause.'

'What's this probable cause,' the cops asked. 'What are you, a lawyer? You even know what probable cause means?'

'I got the right to remain silent!' he said. 'You guys can't trick me. I know my rights! I watch TV!'⁸⁹

By the mid-1960's, traditional police shows had all but disappeared, except to be parodied. Perhaps the nadir of respect for the law on TV came with *Batman*, premiering in 1965, and featuring Batman and Robin as two crime fighters who were nothing more than cosmic jokes. Openly deriding the police serial dramas of the 1940's and 1950's, the spectacularly campy Dynamic Duo appeared twice a week (Wednesdays and Thursdays). Based in Gotham City, they fought crime personified by a stunning array of likeable villains: the Joker (Cesar Romero), the Riddler (Frank Gorchin and John Astin), the Archer (Art Carney) and the Penguin (Burgess Meredith), who were infinitely more capable than the police commissioner and his force. *Batman*, concluded one set of TV historians, "relied on the

87. *Television's Greatest Hits Vol. II* (Tee Vee Toons, Inc., 1986) (recorded anthology of television theme songs).

88. See H. CASTELMAN & W. PODRAZIK, *supra* note 19, at 197.

89. Gunther, *TV Police Dramas are Teaching Civil Rights to a Generation of Viewers*, TV GUIDE, Dec. 18, 1971, at 7.

traditional battle between good and evil, but treated the melodramatic conflict as a very silly game in which the villains were the most appealing characters."⁹⁰ *Batman* represented the apex of countercultural rebellion on television, such as it was. Or, as *Batman* might put it, "Pow! Blam! Kabloom!"

With police shows losing popularity in the late 1950's and early 1960's, one obvious set of beneficiaries was the "secret agent" shows, which in many ways, were simply police shows transferred abroad with more gadgetry.⁹¹ For example, *The Mob* was replaced by *THRUSH*; *The F.B.I.* was replaced by *U.N.C.L.E.* The 1960's would become the decade of *I Spy*, *Mission Impossible*, and even a series spoofing the spy shows, *Get Smart*.

The other beneficiaries were the traditionally anti-authoritarian private eyes, whose series made a comeback in the late 1950's and early 1960's. In 1959, ABC alone was running twelve private detective shows.⁹² Still, Perry Mason was no radical. Though his show was antipolice, it promoted a favorable view of the law by showing that ultimately the legal system did work. Thus, even the private eye shows that followed in his path, like *Peter Gunn*, *Staccato*, and the popular *Hawaiian Eye*, tended to be more conventional than their cinematic or literary predecessors.

The most celebrated of these new detective shows in the late 1950's was *77 Sunset Strip*. An adventure series that premiered in 1958, *Sunset Strip* created TV's first "hip detectives," Stu Bailey and Jeff Spencer—character types who would proliferate over the years, culminating twenty-five years later in Sonny Crockett and Ricardo Tubbs of *Miami Vice*.⁹³ Unlike the private eyes of Hollywood's past, *Sunset Strip*'s detectives were solidly middle class—witty, well dressed, well educated (one even had a law degree), and upwardly mobile, down to their Corvette Stingrays and switchboard operators. Bailey even dictated his letters.⁹⁴

From then on, the formula for these detective shows has remained constant. The heroes are "good buddies, they make their own rules, they drive a distinctive car, they shoot guns, they save each other's lives, they chase bad guys very fast in their distinctive car, they get hurt, they don't die, they always get their man."⁹⁵ True, the stars of *77 Sunset Strip* did not work for the police; that development

90. H. CASTLEMAN & W. PODRAZIK, *supra* note 19, at 183.

91. See E. BARNOUW, *supra* note 58, at 367-72.

92. See A. MCNEIL, *supra* note 5, at 791-92.

93. See H. CASTLEMAN & W. PODRAZIK, *supra* note 19, at 129.

94. *Id.*

95. J. GREENFIELD, *supra* note 19, at 148 (discussing *Starsky and Hutch*).

would not come until the end of the next decade. But they were far more respectful of society's mores than the Sam Spades or Mike Hammers. Even *Time Magazine* noted the change, in a 1959 cover story: "It is proper this season for TV Private Eyes to get along with the police, a typically unrealistic TV compromise, for even on TV no real cop would dream of asking a detective for so much as the loan of a leather-covered sap."⁹⁶

Thus the crime shows of the late 1950's and 1960's were peculiar reflections of the era. Though organized law enforcement obviously had lost some of its allure, the era hardly marked a return to the days of the Keystone Cops, or even Mike Hammer. Crime shows were rebellious without being disobedient; they were casually dismissive of the police without being openly contemptuous. On television, "the system" still worked and the crime was always solved. It is just that the police were no longer the central heroes. That role fell to detectives, and for the only time in television history, to lawyers as well.

2. HOW HE AFFECTED THE LAWYER SHOWS

It is no surprise that Perry Mason paved the way for more television lawyers. At times when the police are unpopular, shows about lawyers tend to be more popular. That is because television's lawyer-heroes are usually criminal defense attorneys, foils of the law enforcement establishment. So it went in the 1960's.

Yet by making the lawyer an admired television personage, Mason also helped to convert the world of television into a haven for other professional heroes who could appeal to upper middle-class audiences, who were more attractive to advertisers. He thus paved the way not only for other shows about attorneys such as *The Defenders* and *Owen Marshall*, but also for the Dr. Kildares and Dr. Marcus Welbys who followed.⁹⁷ In fact, the first such professional to follow Mason was a criminologist, Carl Hyatt (played by Sebastian Cabot), the star of *Checkmate*.

Even before Mason, television had featured several crime series starring lawyers, including *Mr. District Attorney* and *Justice*, a 1954 docudrama modeled on the style of *Dragnet* and based on the travails of a legal aid lawyer in New York. But the new lawyer shows after Mason were much different. Prosecutors became villains. In some, crime was not even the major theme. In a few, neither was the law.

Take the highly acclaimed *The Defenders*, which premiered in

96. *The Corpse in the Living Room: Or The Private Life of the Private Eyes*, TIME, Oct. 26, 1959, at 48-49.

97. See H. CASTLEMAN & W. PODRAZIK, *supra* note 19, at 147-49.

1961, in the Saturday night time slot following *Perry Mason* (then in its fifth season). Ostensibly, it was just another lawyer show, featuring Lawrence Preston (played by E.G. Marshall), who practiced with his son Kenneth (played by Robert Reed). But *The Defenders* dealt less with crime and courtrooms than with controversial issues like blacklisting, abortion, and the death penalty. "One of the main purposes of the show," explained Marshall, "is to clarify the difference between morality and justice. Morality is the way you *feel* about an act. Justice is a rational interpretation of the facts."⁹⁸ "The show fundamentally reflects Justice Holmes's concept," said show writer Ernest Kinoy, "that the law is a historical phenomenon that lags behind social needs."⁹⁹

Its interpretation of Holmes notwithstanding, *The Defenders* made for forceful and well written television drama, drawing an estimated twenty-one million viewers each week.¹⁰⁰ Yet to the casual viewer, *The Defenders* suggested that lawyers, alone among society's professionals, dealt meaningfully with the pressing political issues facing society. But the lawyer shows that came at the same time or after *The Defenders* chose not to pick up on either its rare-for-television dramatic quality, or its topicality. Instead, they sought to emulate the more superficial aspects of its appeal. *Cain's Hundred*, premiering the same season, offered an odd but typically unrealistic concept of legal ethics. Nicholas Cain was a criminal lawyer with many gangsters as clients. In a fit of conscience, he turned government informer and worked undercover to nail his former patrons. The producers of *Arrest and Trial* tried a different stratagem—a ninety-minute show, featuring forty-five minutes of criminal pursuit (Ben Gazzara played the policeman), and forty-five minutes of the ensuing trial (Chuck Connors played the defense attorney). There was only one problem. Every week, one of the show's stars had to be wrong. Not surprisingly, the public never bought it.

While this era also saw more traditional lawyer shows such as ABC's *Slattery's People*, starring Richard Crenna and Ed Asner, it was on series like *Judd for the Defense* and the popular *Owen Marshall* that the genre evolved the furthest from *Perry Mason*. On these series, the lead characters were older men, often with younger assistants. Occasionally, these lawyers would even lose a case, another marked difference from *Perry Mason* or the traditional crime shows. Most represented a wide range of clients, not just criminals, and they

98. TV GUIDE: THE FIRST 25 YEARS, *supra* note 18, at 60.

99. *Id.*

100. *Id.*

rarely indulged in the sort of detective work and criminal deduction for which Mason was famous. In fact, by the time *Owen Marshall* premiered, the lawyer rarely saw the inside of a courtroom. He was a trial lawyer in name only.

These lawyers all shared certain characteristics. All were good listeners. They were warm, older, "family men" (though few, in fact, had families) who spent each week solving their client's problems, which had less to do with law than with the existential travails of modern living, including unhappy marriages, ungrateful children, or terrible jobs. They were, in fact, television's great benevolent authority figures, and as such, they radiated "concern." Scholar Horace Newcomb has written:

While that concern is grounded in the professional nature of each formula—concern with healing and with justice—it moves quickly into new areas: concern for the social system that produces ignorance about disease and human rights, concern about individuals who find themselves caught in dilemmas of emotional or physical danger. . . . Ultimately, these qualities refine themselves and combine into essential stability. . . . [These heroes] exhibit all the necessary qualities of superior fathers and are willing to take on significantly larger families. . . . In some ways, they are the stock popular figures of country doctors and county seat lawyers.¹⁰¹

As Newcomb points out, the genre came to encompass medicine as well as law, the Marcus Welbys as well as the Owen Marshalls. (Both series had the same executive producer.) That is because both professionals played a nearly interchangeable social role in these dramas, that of society's counselor. These mid-1960's dramas, which began with *The Defenders*, were truly the tales of "public servants," and the shows' visions harkened back to an earlier era of small-town America, where a true community of values existed that transcended the generational and ideological differences that came to dominate the news of the decade. Regardless of whether such a depiction was realistic, the shows presented a very positive view of the legal profession. And, like virtually all television lawyer series, these shows had a stronger audience among women, who are traditionally less devoted followers of crime drama. It is no coincidence that Perry Mason began on radio as a daytime soap opera, with an almost exclusively female audience.¹⁰²

As an accurate picture of lawyers and their day-to-day existence,

101. H. NEWCOMB, *supra* note 19, at 122, 123.

102. See J. McDONALD, *supra* note 50, at 231, 277.

however, these shows fell short. Needless to say, legal work is hardly as heroic, as exciting, or even as helpful to society as these dramas portrayed. I would like to see such a lawyer "in more natural circumstances," one critic complained at the time. "How would he do at a title search, or at a long-drawn-out closing? Has he ever had any experience in patent law? Wouldn't he fall apart if some of his objections were overruled occasionally? . . . When do the television lawyers check the precedents and write the briefs?"¹⁰³

But in the world of television, truth is relative. What is important is that those shows gave the public, especially young people, a very positive image of the legal profession. In so doing, they could well have influenced the surge in law school enrollment that occurred in the 1960's and 1970's.¹⁰⁴ Many studies have shown that youngsters get their principal information about careers from the way those jobs are portrayed on television.¹⁰⁵ A decade later, when it came time for these young viewers to pick a career, more would become lawyers than any generation in history.¹⁰⁶

By the late 1960's, however, the popularity of lawyers on television began to fade. Because their stories provide little action outside of the courtroom, lawyers have never been one of television's bigger heroes, and Owen Marshall was the last of the breed. In the early 1970's, television producers tried to change the lawyer-as-hero genre to fit the times, introducing several dramas about crusading, activist attorneys. Series like *Storefront Lawyers* and *The Young Lawyers* portrayed the struggles of young legal aid attorneys in their efforts to help the poor and underprivileged. But either because there was not enough of a young audience for any of these dramas, or because the limits of the genre had been reached, the shows failed. "The *Storefront Lawyers*, all those shows had protagonists who were social-worker types," programming executive Grant Tinker once com-

103. Kendall, *If Perry Mason Lost a Case*, N.Y. Times, Jan. 21, 1962, § 6 (Magazine), at 29.

104. A.B.A., A REVIEW OF LEGAL EDUCATION IN THE UNITED STATES: FALL 1984, at 66 (1985). A 1964 Opinions Research Corporation Survey revealed, in contrast to later trends, that the image of lawyers was improving. Respondents were asked whether the ethical and moral practices of lawyers had improved in recent years. The results are reprinted below:

Better	25%
Worse	18%
About the same	34%
No opinion	23%

(Survey data available from the Roper Center for Public Opinion Research, Storrs, Connecticut).

105. Gerbner, *supra* note 11, at 420.

106. A.B.A., A REVIEW OF LEGAL EDUCATION, *supra* note 104, at 66.

plained. "They were all *anti* heroes. They were *cheek-turners*. I can't remember a cheek-turner who has ever made it in TV."¹⁰⁷

ABC even moved the *Storefront Lawyers* out of the ghetto and renamed it *Men at Law*. When it also failed, it was clear the "lawyer as hero" era was over on television. But it had not been without effect.

3. THE EFFECTS

Television, as we have seen, is both a mirror and a lamp, reflecting public opinion, and leading it as well. Certainly, the increasingly negative portrayals of police on television in part reflected public sentiment in the 1960's. The well-publicized rising crime rate of that era, now attributed principally to changing demographics, was then often blamed on the police.¹⁰⁸ A new wave of police scandals (one the subject of the popular movie *Serpico*), as well as frequent charges of police brutality by civil rights activists, fueled antipolice sentiments.¹⁰⁹ By 1967, one survey found that up to one-half of all victims of crime no longer even bothered to phone the police, perhaps the most visible sign of public disenchantment with law enforcement.¹¹⁰

Yet these shows clearly affected attitudes as well. Though studies of the medium's impact on changing attitudes are still sparse, researchers like George Gerbner have demonstrated that people who watch a great deal of TV believe that real life is just like what they see on the home screen.¹¹¹ Other observers at the time noted the same phenomenon. Attorney (later Senator) Frank Moss complained that:

A good number of jurors have become convinced, through watching television, that the prosecutor is some sort of trick artist, who pulls a rabbit out of his hat in the last reel [I]f he doesn't resort to theatrics, as the TV prosecutors do, they are inclined to bring in an innocent verdict.¹¹²

Former Senator Thomas Eagleton (then a prosecutor) was even more direct. "We lost 50% of our cases last year [1957],"¹¹³ he said. "Why? Some jurors thought we failed to present the evidence the way they'd seen it on TV."¹¹⁴

In a prescient 1958 article entitled *The Case of the Unhappy DA*,

107. See Efron, *What Makes A Hit?*, in TELEVISION TODAY 38, 43 (B. Cole ed. 1981).

108. See R. FOGELSON, *supra* note 40, at 275.

109. See *id.* at 274, 276, 282-87.

110. P. ENNIS, CRIMINAL VICTIMIZATION IN THE UNITED STATES 41-47 (1967).

111. See Gerbner, *supra* note 11, at 420.

112. H. CASTLEMAN & W. PODRAZIK, *supra* note 19, at 122.

113. *The Case of the Unhappy DA*, TV GUIDE, Apr. 26, 1958, at 6-7.

114. *Id.*

TV Guide analyzed the problem.¹¹⁵ In one Dallas case, the District Attorney had produced two eyewitnesses to a robbery, but the accused was freed by a hung jury. "Do you know what one juror told me?" the prosecutor asked, "That in every robbery case he had ever seen on a TV show, the thief had left fingerprints. As prosecutor, I failed to establish the presence of fingerprints. So the juror decided the man must be innocent."¹¹⁶

The role of defense lawyers was also not immune from distortion. "The biggest problem criminal lawyers have," said California lawyer Floyd Silliman, "is . . . jurors preconditioned by TV. According to TV, lawyers are not only supposed to get their clients acquitted, they are also supposed to ferret out guilty parties."¹¹⁷

Defense attorney Edward Bennett Williams also complained about the way crime shows had changed the trial process. He wrote:

Television seems also to have had an effect on how witnesses conduct themselves. Due to the style of courtroom drama on the screen, the least significant witness now comes to court expecting to be tricked, ridiculed, and harassed by inquisitorial gimmicks. The number of argumentative witnesses has increased. As a result, trials slow down with unnecessary evasion.¹¹⁸

According to some, these televised portraits not only changed public attitudes, they even altered the very way police acted. "Time was when officers of the law were dull, plodding Sergeant Fridays—sober, simply, doin'-a-job folks," critic Robert Lewis Shayon wrote during this period. "Now, after a generation of broadcasting, cops . . . are highly competent, alertly tempered, debonair, even witty gentlemen. . . . This modification of behavior could have come about only because of the relentless pervasive influence of dial cops on the real thing."¹¹⁹ In the 1970's, survey data would corroborate Shayon's intuitions about how television was changing the nature of police work.¹²⁰

Yet by the late 1960's, television producers began to find new ways to channel the rebelliousness of the era into popular new dramas, without damaging perceptions of either the police or their work. When the police returned to the home screen in force in 1968, they

115. *See id.* at 5-7.

116. *Id.* at 6-7.

117. *A Cop (and a Raincoat) For All Seasons*, TIME, Nov. 26, 1973, at 120.

118. F. MANKIEWICZ & J. SWERDLOW, REMOTE CONTROL 272-73 (1978); *see also* J. CARLSON, PRIME-TIME LAW ENFORCEMENT 195 (1985); Lewis, *Witness for the Prosecution—A District Attorney Testifies that TV is Brainwashing Juries*, TV GUIDE, Nov. 30, 1974, at 4.

119. *See* Shayon, *supra* note 81.

120. *See infra* notes 143-64 and accompanying text.

came back as *Mod Squad*. And they were legitimate heroes once again.

C. *The Return of the Police Shows: From Mod Squad to Kojak (1968-1976)*

1. THE ONSLAUGHT OF CRIME SHOWS

Mod Squad premiered in September, 1968, one month after the riots at the Democratic National Convention in Chicago. Featuring the adventures of three ex-hippie undercover cops, a woman, a black, and a young white ex-drug-user, *Mod Squad* would bridge the gap between the values of the counterculture and the emerging "silent majority." As scholar Todd Gitlin has written:

Mod Squad could appeal to dismayed parents who wanted to think the best of their errant children while seeing their authority approved in the end; to teens who imagined that if they ever stepped out of line they could step back in and authority would lend a hand; and to the law-and-order minded of all ages who saw in the kids' plain clothes not simply the hang-loose garb of the young but the disguises of effective law enforcement.¹²¹

"One black, one white, and one blonde," announced the pre-season promos.¹²² Yet there would be more to *Mod Squad*'s popularity than catchy advertising gimmicks. In its portrait of policemen as hip, caring professionals who could be black or white, women or men, *Mod Squad* again reformed the image of television policemen to conform to societal trends. While twenty-five years earlier, *Dragnet* had presented the policeman as a hero, Sergeant Joe Friday was clearly an old square. In contrast, *Mod Squad*'s heroes and heroine were "cool," and by implication, so was their work.

Because this was still early in the history of television, however, the show's heroes were more "squad" than "mod."¹²³ Drugs and sex were often the root of illegal activity. Hippies were depicted as threats to society. "They maintain the modern youth style of talking things out,"¹²⁴ wrote critic Robert Louis Shayon. "Beyond that, all resemblance to the real mod generation vanishes. They practice violence with characteristic TV relish and physical crunch; they have no political notions . . ."¹²⁵

Ironically, television turned back to more conservative police

121. T. GITLIN, *supra* note 19, at 139 (1983).

122. H. CASTLEMAN & W. PODRAZIK, *supra* note 19, at 207.

123. Shayon, *Mod v. The Squad*, SATURDAY REV., Nov. 23, 1968, at 71.

124. *Id.*; see also *Telling It Like It Isn't*, TIME, March 21, 1969, at 59.

125. *Id.*

shows in this period, partly because television producers, like many artists of the period, wanted to address broader social issues and these shows provided a "safer" vehicle by which to do so. A police show, with a basic appeal to a conservative audience, has freedom to confront social problems in an unthreatening way. Moreover, as writer Jeff Greenfield has noted, "[A]s certified 'tough guys,' policemen can also become involved with each other without raising eyebrows."¹²⁶ A writer can develop emotional attachments between characters, or even express a humane viewpoint far more easily on a police drama than on an adventure series, or even a sitcom.

There was another reason why television rediscovered the police in the late 1960's: Hollywood producers could read election returns. Two months after *Mod Squad* premiered, Richard Nixon was elected, having campaigned on a platform of "law and order." Like radio in the Depression, societal unrest caused television to trigger a conservative backlash, and a number of series that legitimated "the system." In broadcast terms, the 1970's became a broader-scale rerun of the 1930's.

To be fair, several more crime shows had preceded both *Mod Squad* and Nixon, though none attained their immediate notoriety. The swing back to the right actually began in the fall of 1966 with ABC's *Felony Squad*, followed by the return of *Dragnet* in *Dragnet 67*—the same cinema verite approach with up-to-date scenarios. (The first episode, for example, featured Webb's capture of a crazy LSD pusher.) The next season, these shows were followed by *N.Y.P.D.*, which featured TV's first black and white cop team, and *Ironside*, starring Raymond Burr, this time as a San Francisco police chief confined to a wheelchair. As writers John Fiske and John Hartley subsequently noted, *Ironside* himself was something of a countercultural figure, because his "wheelchair serves not only to identify him, but more importantly, is an overt sign that he uses non-physical and non-violent methods."¹²⁷

Hawaii Five-O, as much an island travelogue as a crime show, and *Adam-12*, another "realistic police drama" produced by Jack Webb, were two other shows that premiered the same year as *Mod Squad*. By 1971, there were 168 law enforcement characters on television, eighty-eight more than the number appearing just two years before.¹²⁸ During the same period, the number of lawyers declined

126. J. GREENFIELD, *supra* note 19, at 148.

127. J. FISKE & J. HARTLEY, *READING TELEVISION* 175 (1978).

128. Arons & Katsh, *How TV Cops Flout the Law*, 4 *SATURDAY REV.*, Mar. 19, 1974, at 11, 14.

from twenty-five to eighteen while the number of warrantless searches and *Miranda* violations in television drama more than doubled.¹²⁹

On one episode of *Mod Squad*, officers were shown picking the lock to a woman's home and searching her belongings without a warrant.¹³⁰ "Kids are learning that the Constitution is a joke and that civil liberties do not exist," complained a Harvard student magazine.¹³¹ On the other side, TV writers began to complain about procedural protections for criminals. "Our whole show has to come to a dead stop every week while the cop politely reads the crook his rights,"¹³² one writer said. "This civil rights business may be all right in real life but it makes miserable drama."¹³³ "On our show we feel we can break the rules to some extent where it's dramatically necessary,"¹³⁴ explained the executive producer of *Mod Squad*. Other shows were even worse.

While over time, the depiction of the police would become much different, the law enforcement series that followed *Mod Squad* in the late 1960's and early 1970's retained its smug hipness. *McMillan and Wife*, which premiered in 1971, featured the adventures of the suave San Francisco Police Commissioner and his attractive wife, who aided his investigations. A series with a good deal of humor, *McMillan and Wife* showed the public that police work could be both fun and unstructured. McMillan worked alone, without the constraints of the police bureaucracy. He was a private eye, masquerading as a police commissioner.¹³⁵

Then came *The Rookies*, premiering in 1972, a show about three young police recruits (one black) recently out of college and eager to "do good." These policemen solved crimes, but more importantly, like the television lawyers of the mid-1960's, they solved people's personal problems as well. The policeman was now portrayed as a professional and a social worker, a trend that would continue.¹³⁶

As the police on television gained popularity in the 1970's, lawyers' popularity fell correspondingly. After all, with the police solving crime so effectively, there was little need for heroic lawyers to make the system work. *Petrocelli*, a 1974 drama about a slick city lawyer practicing in Arizona with a cowboy as an investigator, lasted

129. *Id.* at 14.

130. See Gunther, *supra* note 89, at 8.

131. *Id.*

132. *Id.* at 9.

133. *Id.*

134. *Id.*

135. See H. CASTLEMAN & W. PODRAZIK, *supra* note 19, at 232.

136. See D. MARC, *supra* note 19, at 88-89.

two years. This was eighteen months longer than *The New Perry Mason*, (with a new actor playing the role) which could not even make it through the entire 1973-74 season. *Kate McShane* (premiering in 1975), the first series about a woman lawyer, lasted just eight episodes with its stories about an Irish woman who worked with her brother, a Jesuit priest and a law professor. The exception that proved the rule was *Delvecchio*, a successful 1976 show starring Judd Hirsch as a tough but fair cop who became a policeman after he graduated from law school and flunked the bar exam.

By the early 1970's, television had embarked upon a new golden age of law enforcement. With the police in vogue, it was natural that a whole new wave of private eyes, pop culture's traditional heroes, would reappear as well in new guises. In 1971 alone, as one viewer noted, there was *Mannix*, a straight detective; *Longstreet*, a blind detective; *Ironside*, a crippled detective; *Cannon*, a fat detective; *Columbo*, a humble detective; and *The Partners*, a couple of inept detectives. As the decade wore on, *Mannix* and *Columbo* would be joined by others like *Barnaby Jones* and *Sarge*, a former police detective who became a priest, yet continued to solve crimes.

By 1973, there were twenty-nine crime series on prime time, and the networks were either showing or developing crime shows for every conceivable audience. By now, the line between the police and private eyes was barely visible. This era featured *Police Woman*, starring Angie Dickinson as Pepper Anderson, an attractive divorcee who worked as an undercover officer for the Los Angeles Police Department; *Streets of San Francisco*, with Karl Malden and Michael Douglas; as well as the ultraviolent *S.W.A.T.* (the adventures of a police antiterrorist squad), *Starsky and Hutch*, (another hip detective team like the one on *77 Sunset Strip*) and *Police Story*. The networks would also offer *Police Surgeon*, *Bronk*, *Jigsaw John*, *The Blue Knight*, and *Joe Forrester*, as well as private eyes *Miles Banyon*, *Harry O.*, and *Banacek*. Private citizens were also solving crimes: *The Magician* featured the adventures of—what else?—a crime-fighting magician; *Quincy* related the escapades of an enterprising coroner; *Longstreet* showed the adventures of a heroic insurance investigator; while *Kolchak* featured a reporter in a similar role as a sleuth.

Yet a new type of policeman also started making the rounds in the 1970's—the blue-collar, ethnic cop. As with *Dragnet* before, the principal show of this genre was actually an effort to depict police work more accurately than the clichéd police dramas that were over-running television.¹³⁷ This crime fighter, in particular, was tougher

137. See J. CASTLEMAN & W. PODRAZIK, *supra* note 19, at 247.

than his predecessors, as well as more violent, unyielding, and obsessed with the way criminals were "getting off" because the police were not allowed to do their job properly. "A smart legal aid lawyer," this detective would say, wants only "to get criminals back on the street." "Who loves you, baby?" he often said, sucking a lollipop. His name was Kojak, played by Telly Savalas, and he was a response to changing perceptions of crime. "Kojak is a one-man institution . . . and he's as much a mythic defense against the fear that the police are a faceless bureaucratic organization, as he is against the network of crime,"¹³⁸ critic Lorna Sage wrote then. "Kojak compensates—over-compensates even—for the twin suspicions that the police are impotent and secretly aimless, hamstrung by nebulous political cant."¹³⁹ Television historians Harry Castleman and Walter Podrazik have written in a similar vein:

In the seventies, the easily understood and clearly identified mobsters and crime czars of the past had been replaced in the public's mind by more amorphous, but equally frightening forces. Criminals were often violent madmen and urban delinquents with no stake in society. . . . Even worse, the machinery of justice itself seemed to break down with increasing frequency, often looming as a greater threat than the criminals it was supposed to punish. Kojak was presented as a reassuring figure capable of taking on both of these elements.¹⁴⁰

Soon, there was a wave of shows in the *Kojak* genre: *Toma* featured a tough, Italian-American cop; *Tenafly*, a tough, black cop; *Baretta*, a tough, violent cop. The dialogue from ABC's like-minded *Bert D'Angelo-Superstar* was typical:

D'ANGELO: What do I know about the law? I'm not a lawyer, I'm a cop.

INSPECTOR KELLER: It's your job to enforce it.

D'ANGELO: It's my job to protect people from the mugger, the rapist, the armed robber, and the killer. People like Joey, like my partner Mickey, did the law help them? Did the law stop that killer? All the laws in the world won't stop one man with a gun. It's going to take me or somebody like me. And you know what? I'll do it any way I can.

INSPECTOR KELLER: You're a dangerous man, Burt.

D'ANGELO: That's right. You'd better be damn glad I'm on your side.¹⁴¹

138. TELEVISION: THE CRITICAL VIEW 155 (H. Newcomb 2d ed. 1979).

139. *Id.*

140. See J. CASTLEMAN & W. PODRAZIK, *supra* note 19, at 246.

141. Arons & Katsh, *supra* note 128, at 11.

D'Angelo was a dangerous man. And he had a point. It was clear that he, and others like him, were cops, not lawyers. All that mattered on these shows was stopping crime by whatever means possible. Yet by so personifying the legal process, television had begun to suggest that people, not rules, provide the solution to crime. In the world of television drama, in fact, legal procedure was becoming an obstacle to the work of the heroes. And according to some researchers, that too was beginning to have an effect on public opinion.

2. THE EFFECTS OF THE CRIME SHOWS

On television, the police of the 1970's grew increasingly more contemptuous of the Constitution. Researchers Stephen Arons and Ethan Katsh examined fifteen police programs during one week of March, 1976, and found twenty-one cases of police violations of suspects' constitutional rights, and fifteen cases of police brutality and harassment.¹⁴² "We'll nail you sooner or later," Kojak would tell a suspect, "So why don't you just confess?" When another suspect in custody would say he wanted a lawyer, Kojak would just growl, "Doesn't everybody?" The request went ignored.

Another empirical study of television in those years made these findings:

—Almost two out of every three shows on television (64%) featured at least one crime;

—Over half of the crimes were violent—either murder or assault. (In contrast, FBI statistics for the 1970's show that burglary, larceny, and auto theft were, by far, the most frequently committed crimes.);

—Most crime was premeditated (94%);

—The overwhelming majority of TV murder victims were young (66% under 35), male (80%), and white (73%). (The first two statistics were somewhat accurate—54% were under 35 and 78% were male. But, unlike TV, over half of all victims were not white—56%.);

—More than half of all TV criminals were the victims of violence, usually inflicted by law enforcement officers.¹⁴³

Certainly many of these attributes of crime drama had been

142. *Id.* at 13.

143. Dominick, *Crime and Law Enforcement in the Mass Media*, in *DEVIANCE AND THE MASS MEDIA* 105-28 (C. Winick ed. 1978); see also Culver & Knight, *Evaluating TV Impressions of Law—Enforcement Roles*, in *EVALUATING ALTERNATIVE LAW ENFORCEMENT POLICIES* (R. Baker & F. Meyer, Jr. eds. 1979); Gerbner, *Violence in Television Drama: Trends and Symbolic Functions*, in *TELEVISION AND SOCIAL BEHAVIOR* 28-187 (G. Comstock & E. Rubinstein eds. 1972).

apparent throughout the history of television. But clearly, the number of crime shows had grown, as had the role of the police in solving them. Many of the the new crime thrillers encouraged belief in moral values, law, and government institutions. Some critics found appalling the violence of shows like *S.W.A.T.*, with its bazooka teams, and accused the networks of restaging "the Vietnam War and the riots in the streets," only this time "returning ultimate control to the righteous forces of law and order for a satisfying conclusion."¹⁴⁴ Arons and Katsh saw a connection between the new crime dramas and the Supreme Court's swing to the right under Chief Justice Warren Burger. They accused the Court, as well as the shows, of "responding to a body of public opinion that is increasingly permissive about the flouting of our laws by law enforcers themselves."¹⁴⁵ Arons and Katsh observed that "[t]he Court has been legalizing outrageous police conduct, enacting into law principles much like those projected in the TV crime shows. Those principles include the notion that the end justifies the means, that the state is always right, and that violence is perfectly acceptable when resorted to by the right people."¹⁴⁶

Another study of police behavior on television conducted during this period found an average of two to three constitutional violations per program. In most programs, the study reported:

[I]llegal searches were portrayed as essential, always turning up a vital missing piece of evidence. Witnesses brutalized by police often provided the crucial lead that resulted in the capture of vicious criminals. . . . [I]n over 70 percent of the cases where the police mention[ed] the Constitution, the courts, or judges the reference was negative or critical. . . . [O]n television crime shows the message is: "The law and the Constitution stand in the way of effective solutions to our crime problem."¹⁴⁷

The producers of these crime shows made no secret of their sympathies. "Let me put it in a very corny phrase,"¹⁴⁸ Quinn Martin, producer of *Barnaby Jones* and *The FBI* said, "I am a patriot. In the police shows that I do, I show the police in an idealized way. Without respect for the police, I think we'd have a breakdown in our society."¹⁴⁹ It was yet another example of television selectively reflecting

144. See H. CASTLEMAN & W. PODRAZIK, *supra* note 19, at 260.

145. See Arons & Katsh, *supra* note 128, at 11.

146. *Id.*

147. Haney & Manzolati, *Television Criminology: Network Illusions of Criminal Justice Realities*, in READINGS ABOUT THE SOCIAL ANIMAL 128 (E. Aronson ed. 1981).

148. Efron, *What Makes A Hit?*, TV GUIDE, April 27, 1974, at 2-3.

149. *Id.*

and reinforcing certain societal norms.

"We were close to chaos, close to suspicion of institutions in the early 1970's,"¹⁵⁰ said David Gerber, producer of *Police Story*. "The blue line was there to preserve what was left, what was the semblance of what used to be one helluva government when it served the people."¹⁵¹

ABC executive Jonathan Axelrod put it a bit differently: "I like shows that are about institutions that we look up to. In a country where crime is exploding, things like the FBI become more important to people. When you think of the amount of kidnapping that's going on and murder, it's very important."¹⁵²

There were other messages too, that went beyond television's increasing glorification of law enforcement by whatever means necessary. Without ever producing the statistics to prove it, *Kojak* regularly preached that unshackling the police from legal restraints would reduce crime. In fact, studies showed that *Miranda* had virtually no impact on the real work of the police.¹⁵³ Almost all shows implicitly endorsed the notion that crime was always the product of deranged or greedy professionals; social factors were never mentioned. Every show also taught viewers that the criminal justice system was working well. One study showed that ninety percent of all television crimes were solved by police making successful arrests.¹⁵⁴ If viewers knew the real figure was around ten percent,¹⁵⁵ they might have felt a little differently about "law and order." They also might have felt a bit differently had they known that the legal process, contrary to its television image, does not stop with an arrest; that is often where it begins.¹⁵⁶ Things such as bail, arraignment, and plea bargaining seldom showed up on prime time. Once the police finished their work, the drama stopped.

Even the police occasionally complained about these depictions. "Baretta is just a murderer with a badge," said Lieutenant Dan Cooke, press relations officer for the Los Angeles Police Depart-

150. T. GITLIN, *supra* note 19, at 243.

151. *Id.*

152. *Id.* at 245.

153. See generally Project, *Interrogations in New Haven: The Impact of Miranda*, 76 YALE L.J. 1519 (1967).

154. See Gerbner, *Trial by Television: Are We at the Point of No Return?*, 63 JUDICATURE 417, 419 (1980).

155. *Id.* at 418. A December 1982 ABC telephone poll revealed that 60% of all adults have "a great deal of confidence" or "a good amount of confidence" in the police to solve crimes.

156. See Winick & Winick, *Courtroom Drama on Television*, 24 J. COMM. 67, 73 (1974); E. MANKIEWICZ & J. SWERDLOW, *supra* note 4, at 260, 265.

ment.¹⁵⁷ Another policeman protested that on television:

[A]ll crimes are solved and in quick order. All crimes are continually worked on until they are solved. All departments have sophisticated equipment and methods with which to catch criminals. All fingerprints taken lead to an arrest. All injuries to a police officer are glorious happenings.¹⁵⁸

Said another, "The public gets the impression that you can take fingerprints off water. They're under the impression that every criminal leaves a clue."¹⁵⁹

Television, however, did exert some influence on real life police cases. One study found that about half of the tools actual police detectives were using in their investigations—lineups, fingerprinting, shooting pictures at the scene of the crime—were being done only because the public expected them from television. These procedures, or "tools," were often useless. Boston detective A. Michael Pascal said that most new recruits "come in expecting to be issued a trench coat, a badge, and a .357 Magnum. What we give them is a pencil, a notebook, and an assignment."¹⁶⁰

Another study found that television had even become a major force in convincing youths to join the police. Said one respondent:

I was very much impressed, corny as it may sound, with television police. (Television police?) Yeah, always seeing it on television. This impressed me. That is, the glamour, and the way they kept crime checked. They were publicly devoted guys.¹⁶¹

And the effect on the public? According to James Carlson, author of a 1985 empirical study, "[T]hose who spent the most time viewing crime shows were the least disposed to support civil liberties of those who are accused of crimes." Moreover, he found that:

[H]eavy crime show viewing contributes to support for the legal system and the norm of compliance. . . . Crime show viewing appears to play a role in the inhibition of the natural growth of cynicism regarding the legal system that comes with cognitive maturation.¹⁶²

Another empirical researcher postulated that there was a "basic incompatibility between public knowledge of and support for political

157. See Zuckerman, *supra* note 8, at 56, 60.

158. Arcuri, *You Can't Take Fingerprints Off Water: Police Officers' Views Toward 'Cop Television Shows'*, 30 HUM. RELATIONS 244 (1977).

159. *Id.* at 243.

160. *A Cop (and a Raincoat) for All Seasons*, TIME, Nov. 26, 1973, at 120.

161. N. ALEX, NEW YORK COPS TALK BACK 18-19 (1976).

162. J. CARLSON, *supra* note 19, at 134-35, 149.

institutions.”¹⁶³ In other words, public support for the legal system declined as actual knowledge about it increased. Thus, if the legal system had the continued support of the American people, it was partially because of the myths television had woven around the criminal justice process.

As always, television was both reflecting and fashioning public opinion. Yet it is undeniable that in the 1970's, television helped solidify “crime control” values in the culture at large. Voters now overwhelmingly favored tougher crime-fighting measures, more freedom for the police, and less government spending on the social causes of crime.¹⁶⁴ And, as television moved to the right, the country and the courts moved with it.

D. *Humanizing the Police and Lawyers: From Charlie's Angels to L.A. Law (1976-1987)*

1. THE CRIME SHOWS FADE AND RETURN

By 1976, lawyer shows had all but disappeared from the nation's viewing screens. Yet the early 1970's had seen two major changes in the traditional pop culture depiction of the law and crime. First, in shows like *Cannon* or *Columbo*, the networks retained the image of the heroic private eye, but stripped away the anti-establishment ethos that had previously permeated these dramas. Whether or not Mike Mannix worked for the police seemed only a matter of where he picked up his paycheck. Like other television detectives, he expressed no animosity toward the authorities, and in fact worked closely with them on many occasions. At the same time, television had rehabilitated the image of organized law enforcement, turning the police into genuine blue-collar heroes. Characters such as Baretta and Kojak were the poster boys of the mid-1970's, demigods of popular culture.

By the late 1970's, however, the networks faced a problem. Given the multitude of similar crime shows on television, viewers had begun to tire of them. The public's whims often run in cycles; one decade's fad is the next decade's castaway. In fact, by the 1978-79 television season, there was not a single crime show in Nielsen's Top 20, though studios continued to make them, often with predictable results. There were, for example, *Lanigan's Rabbi*, where Art Carney played a small-town police chief with a crime-solving rabbi as a best

163. Sarat, *Support For Legal System*, 3 AM. POL. Q. 20 (1975); see also J. CARLSON, *supra* note 19, at 2-3.

164. See Cobett, *Public Support for 'Law and Order': Interrelationships with System Affirmation and Attitudes Toward Minorities*, 19 CRIMINOLOGY 339 (1981); see also A. MCNEIL, *supra* note 5, at 186.

friend, and *David Cassidy—Man Undercover*, which featured David Cassidy as—you guessed it—a man undercover. Crime shows attempting to capitalize on the popularity of President Jimmy Carter abounded too with titles like *Nashville 99*, *Carter Country*, and *Lobo*, a spinoff of another classic, *B.J. and the Bear*.¹⁶⁵ “It takes brains to spin off a series from a success, but it takes real guts to spin off a show from a flop,” remarked Johnny Carson at the time.

By 1980, the networks and studios again had ordered up a new batch of crime dramas, intent on exploiting the swing to the right symbolized by the election of President Ronald Reagan.¹⁶⁶ When Brandon Tartikoff, president of NBC Entertainment, realized in September, 1980, that Reagan—always a law and order proponent—would win in November, he bought the series *Walking Tall*, based on the adventures of a law-and-order Tennessee sheriff, to go along with the recently ordered *Hill Street Blues*.¹⁶⁷ Around the same time, ABC opted for *Strike Force*, a drama about a police tactical unit, and *Today's FBI*, yet another rehash of G-men dramas.¹⁶⁸ “[T]here will be no lack of violence on the small screen,” promised one advertising executive at the time, “but it will be of the ‘acceptable’ form as law-enforcement heroes beat up, and otherwise maim, the bad guys.”¹⁶⁹

Despite Reagan's election, however, none of these traditional crime shows did well. “Everyone in the television industry knows at this moment that this big push to law and order didn't work,” said Bill Haber of the Creative Artists Agency in the early 1980's. “Every single law-and-order show that's been put on the air is not working. What the country seems to be attracted to for the moment is fantasy, escapism, *Love Boat*.”¹⁷⁰ The apparent lesson drawn by several programmers from the recent failure of crime shows was that television had so overdone the genre that the stories were no longer believable. Audiences, particularly the baby boomers who had grown up on television, had become too sophisticated to give credence to these oversimplified allegories of good versus evil. Unless the formulas could be changed, crime shows would go the way of the western.

That, of course, did not happen. By 1985, the networks had returned to the crime show genre successfully. That year, there were twenty-eight police and private eye shows on prime time, and *News-*

165. Robards, *The Police Show*, in TV GENRES 22 (B. Rose ed. 1985).

166. T. GITLIN, *supra* note 19, at 221, 222.

167. *Id.* at 222. For an overview of how the media sets the public agenda, see McCombs & Shaw, *The Agenda—Setting Function of the Mass Media*, 36 PUB. OPINION Q. 176 (1972).

168. See T. GITLIN, *supra* note 19, at 222.

169. *Id.* at 242.

170. *Id.* at 245.

week stated, “[N]ever have TV’s streets been so alive with the sound of sirens, the screech of steel-belted radials and that stirring cry of the hunter triumphant: ‘Freeze!’”¹⁷¹ From *Magnum P.I.* and *Riptide* to *Knight Rider* and *Miami Vice*, criminals were on the run again.

Unlike their predecessors in the late 1970’s and early 1980’s, these crime shows succeeded because they successfully responded to the nation’s mood. Their law-and-order protagonists were now more human and in tune with the times—expressing fear, entangling themselves in relationships, and living more or less like other people. “In the biggest departure from TV formula,” commented *Newsweek* in 1985, “the contemporary hard-line crime fighter comes with both a past and a private life”¹⁷² Series began to focus on personal conflicts, while the pursuit of crime became secondary. There was even a profusion of “family” cop shows, giving television a chance to reinforce two of its favorite institutions, the law and the nuclear family. *Magruder and Loud* featured a husband and wife cop team, *Simon and Simon*, two brothers, and *Crazy Like a Fox*, a father and son duo.

Over the last decade, this softening of the depiction of the police has been the major change in television crime drama. In situation comedies like *Night Court*, the networks are finally treating the legal system, as well as the police, as suitable subjects for satire. More importantly, women are now playing major roles in law and crime shows, on everything from *Scarecrow and Mrs. King* and *Hill Street Blues* to *Cagney and Lacey* and *L.A. Law*. Though unprecedented, these modifications have proven to be precisely what was needed to legitimate law enforcement in the 1980’s. In their own ways, dramas like *Hill Street Blues* and *Cagney and Lacey* have shown the police to be as gallant as any heroes in history. It is just that they have become 1980’s heroes—less macho, more compassionate, and more upscale. Today, we prefer a “groovier sort of policeman,” critic Mark Crispin Miller wrote in a prescient 1981 article, “hip, streetwise, yet ‘caring,’ likably rebellious without losing his authoritative air.”¹⁷³

The roots of this “realism” can be traced to the mid-1970’s, with the creation of a wave of successful situation comedies about the police. Whether caused by sponsor insistence or the public’s fear of crime, the workings of law enforcement had usually been considered off-limits to television humorists. In fact, the first police situation

171. Waters, *TV’s Record Crime Wave*, NEWSWEEK, May 6, 1985, at 76.

172. *Id.*

173. Miller, *Off the Prigs*, NEW REPUBLIC, July 18, 1981, at 28. *But see* L. LICHTER & S. LICHTER, *PRIME TIME CRIME* (1983).

comedy of the 1970's, *The Smith Family* (1971), lasted only a year. But in 1975, the creators of *Barney Miller* broke the rules with a well-written comedy that spoofed the crime genre as much as the police themselves.¹⁷⁴ Around the same time, the popular *The Rockford Files*, starring James Garner, moved the private eye genre closer to a similar kind of satirical portrayal by depicting detective work as a kind of treadmill in which all that counted in the end was a kind of resigned, yet good-humored, independence.¹⁷⁵

Situation comedies like *Barney Miller* traditionally revolve around a group of sympathetic characters, usually a family, with whom the audience can identify. *Barney Miller* offered the police station as family; *Night Court*, a decade later, offered court officers in a similar situation. Both shows also made the pursuit of crime a secondary, if not irrelevant, trait that would also emerge in television's dramatic crime shows of the 1980's. In the long run, shows like *Barney Miller* and *Night Court* did as much as or more than serious dramas to improve the image of the police on television.

In this decade, television's changing depiction of the law also signaled a major shift in the viewing audience for crime shows. Compared to their predecessors, surveys showed that crime show audiences of the 1980's were more educated, liberal, middle-class, and composed of significantly more women. How that shift in audiences evolved and was reflected in network programming about the law is a story that combines elements of both careful demographic research and happenstance. It is worth recounting here because it significantly changed the nature of the television crime show.

2. HOW DEMOGRAPHICS AND THE WOMEN'S MOVEMENT CHANGED CRIME SHOWS

Demographic research began in the early days of television, when the networks first strove to deliver to sponsors the most attractive audiences possible in order to maximize advertising rates. Early television ratings revealed how many people watched a show, but they often did not explain in detail what sort of people watched it. Obviously, different advertisers want to appeal to different audiences: Mennen seeks a predominantly male audience, while Chanel wants the opposite. Even more important, most advertisers want to find an audience of well-heeled viewers, now known in the industry as HoH POMs—homes where the “head of the household” is a “professional, owner, or manager.” It is often better to attract ten million viewers

174. See D. MARC, *supra* note 19, at 93.

175. *Id.* at 85, 90.

who make over \$40,000 per year than fifty million who make less than \$20,000.

In the 1960's and 1970's, demographic researchers began to develop more sophisticated techniques to gauge television audiences. What they began to find was that television audiences could be broken down along age, class, gender, and ethnic lines. Of course, some shows have mass appeal, such as *60 Minutes* or *The Cosby Show*, but others may not. For example, researchers were telling the networks that older viewers liked Lawrence Welk; southerners were among the most avid viewers of westerns; well-educated audiences liked *Mission Impossible* and blue collar workers preferred Andy Griffith. These researchers also confirmed the assumption that crime shows tended to have their strongest appeal among men, particularly less well-to-do blue collar workers. That partially explains why crime shows of the 1970's featured so many blue-collar, ethnic heroes like Kojak and Baretta, as well as so much violence. Another reason, according to theorist Stuart Kaminsky, is that social class had always played a strong role in crime dramas. Kaminsky has written:

[t]elevision's cops invariably fall within a limited category of age and class. They are presented as lower-middle-class, and they are committed to protecting the values of that group. They want to protect life and property, but property is particularly important. The villains aspire to money and freedom, which the policemen can never have.¹⁷⁶

Ironically, programmers first began casting women as leads in crime shows as a device to continue to attract male viewers to a genre that in the 1970's had become increasingly outworn. It began in 1974 with *Get Christie Love*, a show about a black, female cop, promoted by ABC as "Beauty, brains and a badge!" and widely hailed as one of TV's worst shows ever. *Police Woman* followed, starring Angie Dickinson. Her character, Pepper Anderson, was hardly "liberated," but was known instead "for the remarkably high percentage of assignments" in which she was "required to appear in skimpy, revealing clothes."¹⁷⁷

On its heels came *Charlie's Angels*, which premiered in 1976, and became something of a national sensation. *Charlie's Angels* brazenly sold the sex appeal of its heroines, with stories about three glamorous female (and often braless) police academy graduates who worked for a private detective agency run by "Charlie," an omnipotent male (played by John Forsythe). Critics called it, among other things,

176. S. KAMINSKY, *AMERICAN TV GENRES* 60 (1985).

177. See J. GREENFIELD, *supra* note 19, at 153.

“sexist,” “dreadful,” “stupid,” and “schlock,” and NBC programming chief Paul Klein coined a phrase for its deliberate “soft porn” approach.¹⁷⁸ “You can get an audience from jiggling,” he said.¹⁷⁹

Yet for all its titillating poses and other faults, one facet of the show struck demographic researchers: for a crime series, *Charlie's Angels* had a large audience among women, who presumably saw the “Angels” as something of a “liberated” ideal—sexy, yet competent enough to do a traditionally male job.¹⁸⁰ The show's pilot revealed that the Angels had only become private eyes because the police were too sexist to let them be detectives. The show's opening sequence each week told how the Angels had been found “unsuited for mundane duties as policewomen, and of their subsequent transformation by Charlie who ‘took them away from all that’ . . .”¹⁸¹

Crime shows, however, did not become the primary television genre to exploit “jiggling” and sexual innuendo. Though there were crime dramas that did, series like ABC's *Love Boat* and *Fantasy Island* sold the promise of illicit sex more heavily. By the mid-1980's, there were still plenty of unliberated sex symbols on the tube, but more often than not, they appeared on shows like *Dallas* or *Dynasty*, not crime dramas.

In contrast, once women had been featured in crime shows, and women at home began watching these series more frequently, programmers went on to cast females as leading characters. The most popular such show is *Cagney and Lacey*, a series about two women police detectives in New York City, premiering as a made-for-TV movie in 1981. *Cagney and Lacey* was one of the few shows written primarily by and for women, and remains the only dramatic series to star two leading women. Equally important, the show created a new type of crime drama, one dealing less with action and violence than with compelling characters and issues. The joke among the show's writers was that on the show, Cagney and Lacey spent more time in the women's locker room than they spent chasing criminals. In 1982, when the series premiered, one writer described the show as “unprecedented for its subject: two very real—and very different from each other—life-size women joined as amicable, successful partners in the pressure cooker of police work.”¹⁸² Shows typically dealt with abor-

178. See H. CASTLEMAN & W. PODRAZIK, *supra* note 19, at 271; see also T. GITLIN, *supra* note 19, at 71.

179. H. CASTLEMAN & W. PODRAZIK, *supra* note 19, at 282.

180. See T. GITLIN, *supra* note 19, at 72-73.

181. See D. MARC, *supra* note 19, at 89.

182. McHenry, *The Rise and Fall—And Rise of TV's “Cagney & Lacey”*, Ms., April 1984, at 23.

tion, sexual harassment in the police department, Lacey's conflicts between her job and raising a family, and such issues as alcoholism and apartheid.

Like most of the "upscale" crime series of the 1980's, *Cagney and Lacey* did miserably when it premiered. Yet whenever CBS tried to cancel the series, it was met with adamant opposition from loyal viewers, mostly women. By 1985, the show had carved out a niche for itself, not so much by attracting massive audiences, but by pulling in the women HoH POMs. Demographic studies showed that two-thirds of the twenty million viewers who watched the show each week were women, and that most were college educated and from families that made over \$40,000 per year.

Other police shows of the 1980's would echo *Cagney and Lacey's* feminist themes. On *Hill Street Blues*, which also had a large female following, institutional sexism became a common motif. In these new police dramas, violence was downplayed, and women police heroines were often portrayed as more compassionate than their male counterparts. This, by definition, often led to portrayals of the police establishment that were less than flattering. On ABC's *Magruder and Loud*, the two married protagonists could not even reveal their marriage to their intransigent bosses.

Despite it all, the police still came out looking much better on these shows than before. After all, alone among television's professionals, the police had shown the good sense to hire and promote two women like *Cagney and Lacey*. And just as women began appearing as police officers, they began to star in other roles on legal shows. There were now female attorneys on *Hill Street Blues* (Joyce Davenport) or on sitcoms such as *Sara* and *Foley Square*. *Code Name: Foxfire* featured a tough woman detective and *Moonlighting* a wisecracking private eye. In 1985, Angela Lansbury's *Murder She Wrote* quickly shot into the Top Ten.

Another police show to replicate *Cagney and Lacey's* success with upscale viewers was *Hill Street Blues*, which premiered in 1981 with abysmal ratings (eighty-third out of ninety-seven prime time programs), and was almost canceled several times by NBC.¹⁸³ Hailed for its "gritty realism" and the high quality of its drama (the show walked away with a host of Emmy awards almost every year), *Hill Street* was an innovative blend of sitcom, soap opera, and traditional crime show. The show was sitcom in its conception: "Fred Silverman would like to do a cop show that is not a standard cops-

183. T. GITLIN, *supra* note 19, at 305.

and-robbers show. A little bit of *M*A*S*H*, a little bit of *Barney Miller*," NBC programming chief Brandon Tartikoff told the show's creators in 1980.¹⁸⁴

What *Hill Street* took from sitcoms was both their traditional emphasis on personal relationships, and their gingerly skeptical attitude toward the work of the establishment. *Hill Street*, like *Cagney*, was not so much about law and order as about people. "We'd like for you guys to develop a show that has more to do with cops' personal lives," Tartikoff told the show's creators.¹⁸⁵ Like most heroes of sitcoms, *Hill Street*'s heroes had upper-middle-class values, if not income. "As a culture hero, Furillo [the precinct captain and the show's lead] was inconceivable before the late seventies," Todd Gitlin wrote. "He represents a new image of benign authority cultivated in the middle class, especially those in their thirties and forties."¹⁸⁶ Similar sympathetic portrayals of the other police personnel on the show would take this series several steps away from the law-and-order ethos of the 1970's crime shows.

The soap opera approach was something new for police shows, though other noncrime series such as *Dallas* and *Dynasty* had taken a similar track. Until the early 1980's, most prime time series centered on one or two heroes, and featured one plot each week, which was resolved successfully at the end of each episode. In contrast, *Hill Street* usually featured three or four story lines per week, some resolved, others left dangling or forgotten. It also featured a mélange of diverse characters—Captain Furillo, Joyce Davenport, Sergeant Esterhaus, Henry Goldblume, Howard Hunter, Belker, Hill, Chief Daniels—making the series, in critic David Marc's words, something of a post-*Mod Squad*.¹⁸⁷ These innovative approaches contributed to the show's realism, though at first they clearly led to audience confusion and low ratings.

Yet *Hill Street* echoed the essential message of virtually every police show in television's history: The police are valorous, and do their job the best they can. Some liberals, wrote critic Mark Crispin Miller, might "place 'Hill Street Blues' opposite the likes of 'Dragnet,' but the shows have much in common."¹⁸⁸ "If one were to affix a label to *Hill Street*," critic Michael Pollan wrote, "it would be post-liberal shading to neo-conservative." He explained:

184. *Id.* at 279.

185. *Id.*

186. *Id.* at 310, 311.

187. See D. MARC, *supra* note 19, at 96.

188. Miller, *supra* note 173, at 28.

The Blues have some patience for civil liberties, but it has worn thin. When Captain Furillo has had it up to here with looters, rapists, con-artists, lawyers, and liberal politicians, he's apt to take a sarcastic swipe at the public defender. "Now, whose civil rights have we violated today, counselor."¹⁸⁹

If *Hill Street Blues* was neoconservative in its appeal to an upscale audience, *Miami Vice*, another popular mid-1980's show, is somewhere out in right field, raising television's glorification of the police to new heights. Its heroes, two Miami officers named Sonny Crockett and Ricardo Tubbs, track down drug dealers and other assorted hoods amidst a collage of pastel imagery and music that resemble rock videos.¹⁹⁰ "In visual style and audio tone," wrote one critic, "'Miami Vice' is so unlike other detective shows that it almost amounts to a reinvention of that mossy genre."¹⁹¹ When asked what was distinctive about the show, producer Michael Mann replied, "No earth tones."¹⁹² Plot and dialogue are often nonexistent, though the show has an above average ration of violence. Moreover, Crockett and Tubbs have exchanged the trenchcoat and grimy uniforms of past policemen for expensive Italian designer outfits: "soft, unstructured jackets worn over T shirts and beltless, pleated pants."¹⁹³ "[W]here did they get the clothes—and the boat and the Ferrari—on cop pay?" asked critic John Leonard.¹⁹⁴ In a sense, television's depiction of law enforcement has come full circle: Crockett and Tubbs live as well as any cocaine dealer in Miami. It is hardly crime fighting as *Dragnet* portrayed it.

That was precisely the point, however. The police on television have now reached the cutting edge of popular culture, transformed into the equivalent of trend-setting rock stars (Don Johnson even cut a record). Demographic research confirms that the show appeals primarily to a group that never before cared much for police shows—the affluent young. In September, 1985, the show ranked seventh among women age eighteen to forty-nine, and third among men in the same category.

In television's history, when the police rose in TV esteem, lawyers fell correspondingly. But the emergence of *L.A. Law* changed that relationship. Although there had been several critically acclaimed shows starring lawyers in between *Owen Marshall* and *L.A.*

189. See Pollan, *Can Hill Street Blues Save NBC?*, CHANNELS, Mar.-Apr. 1983, at 31.

190. Waters, *Miami Vice: Pop & Cop*, NEWSWEEK, Jan. 21, 1985, at 67.

191. *Id.*

192. See Pollan, *The Vice Look*, CHANNELS, July-Aug. 1985, at 24, 26.

193. Waters, *supra* note 190, at 67.

194. Leonard, *State of the Art*, N.Y. MAG., Feb. 25, 1985, at 38, 40.

Law—*The Paper Chase*, a dramatic series based on the movie concerning the travails of several students at Harvard Law School, *The Associates*, a series based on life in a Wall Street law firm, and sitcoms like *Sara* and *Foley Square*—none of these series really struck a chord with the public (though *Paper Chase* did find a second home on cable television). In retrospect, the reasons seem obvious. In eras when the police are popular, criminal lawyers—foils of law enforcement—tend not to be. A show about a prosecutor might prove to be an exception, but throughout television's history, prosecutor shows have usually been nothing but police shows from a different vantage point.

That leaves producers with the option of making a series about another type of lawyer. Shows about attorneys who do not practice criminal law, however, are difficult to sustain. With the usual crime-fighting elements absent, writers have to concentrate either on finding other dramatic aspects in the legal process, or on creating the type of "family" conflicts that propel situation comedies or shows like *Cagney and Lacey*. That is easier said than done. Legal practice outside of the courtroom has rarely grabbed a television audience. And even though viewers have apparently bought the concept that the police unit resembles a family, with many of the same conflicts, they have not accepted the notion as applied to those strictly engaged in legal work—at least, until now.

That is where *L.A. Law* hopes to break new ground. Modeled on the "cinema verite" approach of *Hill Street Blues*, *L.A. Law*'s domain is life in a Los Angeles law firm. Co-created and produced by Steven Bochco, *Hill Street Blues*' guiding light, *L.A. Law* brings the same unique combination of sitcom and soap opera to a show about lawyers. Like *Hill Street*'s protagonists, its heroes and heroines are upper middle class, blending a skeptical attitude toward the establishment with a glorification of a yuppie lifestyle. The shows are not really about law, but about a collection of likeable thirty-year olds who could just as easily have been placed in a business or teaching setting as in a law firm. The weekly legal cases, some taken straight out of *United States Law Week*, are nothing more than pretexts to give the series a focus outside of the interpersonal office affairs that really provide the show's principal themes. In fact, what makes *L.A. Law* unique among lawyer shows is its self-indulgence. Perry Mason, the Defenders, and even Owen Marshall existed week to week to solve the legal and personal problems of their clients. Though the attorneys of *L.A. Law* care about their clients, they care about themselves and their ensemble even more.

When reduced to depicting legal work, Bochco wisely decided to

glorify law practice much like *The Defenders* and *Perry Mason* had done twenty-five years before. If any of the lawyers on *L.A. Law* ever spend a minute in discovery, the audience never knows about it. Moreover, each week *L.A. Law*'s attorneys confront through their court cases some of the hottest issues in the country, like AIDS and date rape. In his first season, Michael Kuzak had more interesting cases than most lawyers see in a lifetime.

Like most soap operas, *L.A. Law* operates by its own open-ended formulas, which means that it is unlikely to affect the evolution of legal or crime shows on television very much. Whether it will improve the image of lawyers in society at large or not is a more open question.

3. HOW CRIME SHOWS AFFECTED PUBLIC OPINION

Television's attitudes toward crime and law enforcement have hardly changed in the last decade. Crime shows favorably depicting law enforcement are still the rule. A 1983 study found that murder was still the most popular television crime,¹⁹⁵ occurring 100 times more frequently on the tube than in real life. Almost all crimes on television continue to be solved successfully.¹⁹⁶ What has changed, of course, is how the police are depicted. Today, they are warm, vulnerable, "real" people to whom any upper-middle-class viewer can relate.

It is thus no coincidence that recent polls continue to document the elevated status of the police. According to one survey, approximately seventy-two percent of the public has a "very favorable" image of the police, a marked difference from just twenty-five years ago.¹⁹⁷ Another tally found that local police are now more highly thought of than the American Medical Association, Congress, the press, or the Supreme Court, not to mention lawyers.¹⁹⁸ In a 1985 Gallup Poll, forty-seven percent of the public rated the honesty and ethical standards of the police as "very high" or "high," a rise of ten percent in just eight years.¹⁹⁹ Meanwhile, in the same period, those rating lawyers "low" or "very low" rose from twenty-six percent to thirty percent.²⁰⁰ Other polls yielded similar results.²⁰¹ Thus, the

195. See Gerbner, *supra* note 11, at 419.

196. See J. CARLSON, *supra* note 7, at 38-39.

197. See Smith & Hawkins, *Victimization, Types of Citizen—Police Contracts, and Attitudes Toward Police*, 8 LAW & SOC'Y 135 (1973), noted in J. CARLSON, *supra* note 7, at 65.

198. See Peek, Alston & Lowe, *Comparative Evaluation of the Local Police*, 42 PUB. OPINION Q. 370-79 (1978), cited in J. CARLSON, *supra* note 7, at 65.

199. See GALLUP REPORT, August 15, 1985, at 191.

200. *Id.* at 192. A 1986 Louis Harris and Associates telephone survey asked respondents to choose groups which had the lowest ethical standards. Some of the results of that study are reprinted below:

transformation of public opinion about the police is now virtually complete. In one generation, the police have gone from scapegoats to heroes, while the esteem and popularity of lawyers seems to have traveled roughly in the opposite direction. This reversal in public sentiment is not surprising in light of the fact that crime shows have portrayed the police as the public's guardian against criminals, while portraying lawyers—usually public defenders—as criminals' guardians against the criminal justice system.

One earlier study of prime time police programs found:

The overall image that [crime] shows project is clearly one that is alien to the Constitution. . . . Hardly a single viewing hour passes without an illegal search, or a confession obtained by coercion, or the failure to provide counsel. Warrants are not sought or issued, and hardly any mention is made of notifying suspects of their right against self-incrimination. Scores of citizens uninvolved in the crime under investigation are roughed up, shaken down, or

Politicians	43%	Corporate Executives	9%
Lawyers	15%	Doctors	7%
Reporters	13%	Not Sure	7%
Those who work on Wall Street	6%		

(Survey data available from the Roper Center for Public Opinion Research, Storrs, Connecticut).

201. In 1985, the Roper Organization conducted a national telephone survey in which it asked respondents to rate the honesty and ethical standards of lawyers and police. The results are reprinted below:

	POLICE	LAWYERS
Very high	6	3
High	31	16
Average	47	44
Low	11	25
Very low	4	7
No opinion	2	5

(Survey data available from the Roper Center for Public Opinion Research, Storrs, Connecticut).

In 1987, the Yankelovich Organization conducted a national telephone poll asking respondents to tell them how they rated the ethical and moral standards of certain groups. Some of these results are reprinted below:

	POLICE	LAWYERS
High	48	35
Low	21	37
Neither	27	21
Other	05	08

(Survey data available from the Roper Center for Public Opinion Research, Storrs, Connecticut).

harassed—by police. Homes, offices, and cars are broken into regularly—by police. With a sixth sense that only scriptwriters can generate, every such invasion of personal privacy turns up the real, and usually demented, criminal, or is justified because the victim was probably guilty of some crime anyway.²⁰²

What these television depictions of zealous police tactics translate into is increased public support for both the weakening of constitutional protections, which impede prosecution, and the overall strengthening of law enforcement mechanisms. As public sentiment moves more in line with the “crime control” model of law enforcement and less in line with the “due process” model, largely due to the influence of television, it becomes less likely that extralegal police actions directed against criminal suspects will draw censure or even disapproval from large segments of the American public, who perceive such conduct as effective law enforcement.

V. CONCLUSION

As television theorist Horace Newcomb once put it, most of us look at television, without ever really seeing it.²⁰³ If we did, we might be surprised at the way we have chosen collectively to spend the bulk of our time—watching nightly dramas unfolding on a nineteen-inch screen. We would also be struck by the types of dramas we watch. For outside of the situation comedy, crime shows have been the most popular genre in the history of television.

There is a tendency, particularly among older academics, to downgrade the importance of television. Their skepticism is well founded: Television is, after all, considered a form of entertainment, a way for Americans to fill their leisure time. Furthermore, assessing the effects of television on our society is a bit like calibrating the impact of water or the air. Television is so pervasive and taken for granted that it is difficult to imagine—much less measure—what things would be like without it. What is your control group? How do you calibrate empirically the effect of a Perry Mason or a Batman? To be sure, researchers have tried. But like babies grasping for sunbeams, they have usually failed.

Simply because television’s effects can not be measured empirically, however, does not mean they do not exist. For most Americans under forty, television is simply a fact of life. Except for work, it remains our principal activity; we spend more time with a television

202. See Arons & Katsh, *supra* note 128, at 14.

203. See H. NEWCOMB, *supra* note 19, at 1-24.

set during our lifetimes than we do with our parents.²⁰⁴ Wrote Leo Bogart in *The Age of Television*:

In its brief history, television has become the American people's most important source of ideas, apart from interpersonal contact. It has changed the position of other mass media, and profoundly affected the way in which we spend our time with our families, and outside the home. It has influenced our outlook on the world and our political decisions²⁰⁵

Furthermore, popular culture is, by definition, the culture of what is popular. Its history is thus the history of our age. Critic Roger Rosenblatt has written, "Our history—the significant part of it—resides in popular culture, often confused and jumbled, often hiding like the purloined letter, nevertheless coming through with the inevitability of fate in the classics."²⁰⁶

Thus television and its overwhelming preoccupation with crime and the law has meant something. But what? In this article, I have tried to make most of my judgments by scrutinizing what the shows themselves convey. What I have suggested is that until very recently, shows about lawyers were usually a subset of crime dramas in general. On television, lawyers have almost always been portrayed as criminal lawyers; their role has been not to prosecute or defend clients, but to aid or prevent the solution of crimes. They do essentially the same things as policemen or criminals, only in different ways and with more status and income. Because criminal lawyers often are depicted as the foils of police, their shows tend to be popular (and their characters favorable) in eras when the police are not. Today for instance, on shows such as *Miami Vice*, criminal defense lawyers are usually depicted as figures of derision and betrayers of the public trust.

Yet for every lawyer on television, there have been ten policemen and five more detectives; the allegories of the latter are far better suited to television melodrama. In the beginning, there were institutional and dramatic reasons why television turned to police and crime shows as one of its primary sources of entertainment. These dramas offered a neat congruence, meeting the needs and desires of sponsors, networks, producers, and audiences. There were historical reasons as well. Crime dramas have a long and distinguished history, at least in pop culture terms, and they delivered credibility and audiences to a young television medium at a time when neither was assured. In a

204. *Id.* at 9-16.

205. L. BOGART, *THE AGE OF TELEVISION* 331 (1956).

206. Rosenblatt, *Growing Up on Television*, in H. NEWCOMB, *TELEVISION: THE CRITICAL VIEW* 383 (1982).

world of strict dramatic conventions, crime shows also offered the ideal blend of action and simplicity. Television, like all of popular culture, has always been a medium of formulas and genres. As theorist Stuart Kaminsky has written:

There is only so much attention that the home audience will give to narrative information. Television shows, whether consciously or unconsciously, are created in recognition of that. The shows are written in a kind of shorthand which requires, to a great extent, that the audience understand the cultural context in which the information is given.²⁰⁷

Thus most crime show plots have the same basic structure: a crime is committed. It must be solved. And, it is solved.

What television changed from past formulas was who did the solving and how well they did it. To be sure, there were periods in television's history when it adhered to traditional pop culture conventions that dictated that crimes be solved despite the best efforts of the police. In those periods, criminal defense lawyers like Perry Mason became television's most celebrated heroes, because they alone upheld the social order and fought for the underdog. Throughout most of this medium's history, however, and certainly in the last twenty years, television melodrama has depicted the police as the culture's heroic and effective crime fighters, battling a sea of criminals against overwhelming odds. That, in turn, has had its effects.

In one sense, crime dramas have always been deeply conservative. But when agents of the state are responsible for maintaining that order, any anti-establishment message vanishes. Still, television has not merely taken the police—once objects of ridicule—and made them into heroes. It has also conveyed the message that the criminal justice system works well, since on the screen, virtually all crimes end in arrest, or better yet, the death of the suspect. "Crime doesn't pay," is the trite but true moral of these television melodramas.

Yet if crime shows are about law and order, they are light on the law, and heavy on the order. On television, the police always win unless "the system" stops them; due process is not a term heard frequently on prime time.²⁰⁸ In fact, television crime melodramas have little use for the process that lawyers know as law. These shows emphasize results at any cost, which is why researcher George Gerbner once concluded that these telecasts encourage people to "want-demand protection and . . . accept, if not actually welcome,

207. S. KAMINSKY, *supra* note 176, at 33.

208. See Katsh, *Is Television Anti-Law? An Inquiry into the Relationship Between Law and Media*, 7 ALSA FORUM 33-35 (1983).

oppression in the name of safety.”²⁰⁹

As we have seen, these pervasive dramatizations have also influenced courts and the law by affecting public opinion, which in turn, sways the behavior of lawyers, law enforcement personnel, and even judges. Without our realizing it, these depictions have come to govern our expectations about the police and their expectations about themselves. Jurors now come to a trial “experienced” in the ways of the criminal justice system from years of watching crime melodramas. Former police chief Robert Daley has written:

What has happened in this country is that juries tend to believe so-called scientific evidence, and more and more they tend to disregard all other evidence. Too often, if the prosecution can't show that prints were found on the murder weapon, the jury will refuse to believe that the accused could possibly have used it to commit the crime.²¹⁰

Public opinion in a larger sense has also shifted. For the past two decades, debates about the effectiveness of the criminal justice system have not focused on overcrowded courts or prisons, but rather on the wisdom of cases like *Miranda*, decisions that empirical researchers have shown have had little practical effect on crime or the police.

The effects of the masquerade created by television, however, go beyond any specific debate about criminal procedure. For if the system still works well on prime time television, that is about the only place it does. Television crime melodrama has thus given legitimacy to a process that does not warrant it, and has changed the public's entire conception of legal reality. “If you can control the storytelling,” George Gerbner once said, “then you do not have to worry about who makes the laws.”²¹¹ With enough storytelling, Americans may not need to worry about the exclusionary rule, due process, or explanations about the real sources of crime, which on television melodrama seem like anachronistic and misplaced symbols of a bygone age. Should Joe Friday and Sonny Crockett really take these things seriously? Should we? Control the police? Why bother? We know how things really are. After all, we have seen it all before on television.

209. Gerbner & Gross, *The Scary World of TV's Heavy Viewer*, PSYCHOLOGY TODAY, April 1976, at 89, cited in Katsh, *supra* note 209, at 35; see also Paul Michael Glaser's comment in Zuckerman, *supra* note 8, at 58.

210. Daley, *Police Report on TV Cop Shows*, N.Y. Times, Nov. 19, 1972, § 6 (Magazine), at 101.

211. *Bill Moyers' Journal: TV or Not TV* (PBS television broadcast, April 23, 1979) (statement by George Gerbner), cited in Katsh, *supra* note 209, at 26.