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# Second Chances in *The Wire*: Perspectives from Psychology and the Judiciary

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## ABSTRACT

*Playing off a scene in The Wire wherein prison inmates discuss whether American lives have “second acts,” this essay considers psychological and legal issues at play in people’s efforts to turn their lives around, from bad to good. In the first half of the essay, a professor of psychology discusses empirical research into redemptive life stories in which people find positive meaning in suffering and/or transform their lives from failure to relative success. While examples of redemptive life stories may be found in The Wire, making good on second chances seems to be a relatively rare occurrence. In the second half, a federal judge considers the issue of second chances in the American legal system, focusing on the issue of sentencing. Like many of the drug offenders in The Wire, young men sentenced for crimes today have often suffered from a litany of setbacks and deprivations in life. The effort to rehabilitate these offenders must be balanced against competing sentencing goals that involve, for example, deterrence and payback. As in the television series, the possibilities of making good on second chances may be vanishingly rare in the real lives of offenders today.*

## I. INTRODUCTION

In Season Two, Episode Six of *The Wire*, D’Angelo Barksdale and a handful of fellow inmates meet in the prison library to discuss F. Scott Fitzgerald’s *The Great Gatsby*.<sup>1</sup> The book-group leader, who looks to be a local English teacher, poses this question: “Fitzgerald said there were no second acts in American lives. Do you believe that?”<sup>2</sup>

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<sup>1</sup> *The Wire: All Prologue* (HBO television broadcast July 6, 2003) (Season Two, Episode Six).

<sup>2</sup> *Id.*

“Man, shit, we locked up! We best not believe that,” laughs one young inmate.<sup>3</sup> It is better for inmate morale to hope that a second chance lies waiting in the future, he suggests, after he has served his time.<sup>4</sup>

But D’Angelo is not so sanguine: “He’s sayin’ that the past is always with us. And where we come from, what we go through, how we go through it—all that shit matters.”<sup>5</sup>

The leader asks D’Angelo to elaborate, and the response is poignant: “Like at the end of the book, you know, boats and tides and all. Like you can change up, right. You can say you’re somebody new. You can give yourself a whole new story. But what came first is who you really are, and what happened before is what really happened.”<sup>6</sup> As for Gatsby, well, because “he wasn’t ready to get real with the story; that shit caught up to him.”<sup>7</sup>

D’Angelo offers a sobering endorsement of Fitzgerald’s view: There are indeed no second acts, or at best, second acts are likely to be rare, and hard to achieve. In Fitzgerald’s classic American novel, Jay Gatsby appears to defy the author’s expectation for a time, reinventing himself as a fabulously wealthy socialite. But the past ultimately catches up with Gatsby. He never gets what he truly wants, and he ends up floating dead in a swimming pool.

There is some irony in the notion that Fitzgerald, an iconic American novelist, should utter his harsh claim, and it is painful to see D’Angelo’s grim adoption of it. Fitzgerald’s observation runs counter to a relentlessly optimistic trope in American society and culture: many would say that the idea of second chances, and even third and fourth chances, runs deep and strong as a gulf stream in American mythology and folklore. The Massachusetts Bay colonists, after all, were looking for a second chance when they crossed the Atlantic Ocean in the early 17<sup>th</sup> century, as were generations of immigrants who came to America in centuries to follow. Americans have been known to reinvent themselves in countless ways—by picking up stakes and moving west, through religious conversion, by climbing the ladder of success, by amassing great wealth through hard work or an inspired idea, and on and on. According to this line of narrative, if there are second acts to be had *anywhere* in the world, they should happen in America! Like Fitzgerald’s masterpiece, *The Wire* is often celebrated as a quintessen-

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

tially American literary product. To what extent, then, does D'Angelo's distressingly un-American sentiment hold true?

In what follows, we consider the question of second chances in American lives from the twin standpoints of psychology and the law. From the perspective of research psychology, we evaluate D'Angelo's assertion as it applies to some of the most celebrated characters in *The Wire*. Do these characters get second chances? And if they do, can they take advantage of these chances to improve their lives? From the perspective of a federal judge, we then pick up the topic of second chances as it plays out for institutions portrayed in *The Wire*, with a special emphasis on the institution of the judiciary. How is the judiciary portrayed? And how do judges in America today think about second chances in American lives?

## II. AMERICAN REDEMPTION

As portrayed in Hollywood movies, popular fiction, commencement speeches, Sunday sermons, self-help psychology, TV talk shows, and a wide range of cultural discourses, Americans love stories of *redemption*.<sup>8</sup> In a redemptive narrative, a protagonist is delivered from suffering to an enhanced status or state.<sup>9</sup> The overwhelming negativity of the initial scene or chapter is transformed into happiness, fulfillment, wisdom, or some other positive result in a second redemptive act.<sup>10</sup> This sentiment is captured in time-worn aphorisms: "if life gives you lemons, make lemonade"; "no pain, no gain"; "it's always darkest before the dawn"; and "what doesn't kill you makes you stronger." Human beings the world over know that life invariably brings suffering—a realization captured in all of the world's great religious traditions.<sup>11</sup> But more than many other groups and societies, Americans have traditionally prided themselves on a can-do optimism and triumphant individualism to fuel the expectation that suffering will ultimately produce a positive payoff.

In a series of scholarly articles and books, one of us has identified four broad cultural narratives of American redemption.<sup>12</sup> Reflecting a

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<sup>8</sup> See generally, DAN P. McADAMS, *THE REDEMPTIVE SELF: STORIES AMERICANS LIVE BY* (rev. and expanded ed. 2013).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See generally, WILLIAM JAMES, *THE VARIETIES OF RELIGIOUS EXPERIENCE* (1958).

<sup>12</sup> McAdams, *supra* note 8; Dan P. McAdams, *Psychological Science and the Nicomachean Ethics: Virtuous Actors, Agents, and Authors*, in *CULTIVATING VIRTUE: PERSPECTIVES FROM PHILOSOPHY, THEOLOGY, AND PSYCHOLOGY*, 307–336 (Nancy Snow ed., 2014); Dan P. McAdams, *Leaders and Their Life Narratives: Obama, Bush, and Narratives of Redemption*, in *CONCEPTIONS OF LEADERSHIP: ENDURING IDEAS AND EMERGING INSIGHTS* 147–165 (George R. Goethals, Scott T. Allison, Rodrick M. Kramer, and David M. Messick eds., 2015); Dan P. McAd-

strong American heritage of religious and cultural Protestantism, redemptive narratives of *atonement* describe a transformation from sin to salvation.<sup>13</sup> Stories of *upward social mobility* track a second move from rags to riches, epitomized in immigrant success stories and the folklore of the American Dream.<sup>14</sup> Tracing back to the 19<sup>th</sup> century, narratives of escaped African American slaves, a third discourse of *personal liberation* depicts a move from slavery (confinement, oppression, discrimination) to freedom and legitimacy.<sup>15</sup> This same language of emancipation has been successfully appropriated in the 20<sup>th</sup> and 21<sup>st</sup> centuries within social movements promoting civil rights, women's liberation, and the acceptance of gay and lesbian sexual orientations and alternative gender identities.<sup>16</sup> Fourth and finally, many Americans find deep resonance in narratives of *recovery*, wherein something that is deeply good (innocence, sobriety, health) is lost (or stolen away), motivating the protagonist to regain, retrieve, or re-experience the paradise lost.<sup>17</sup> American narratives of psychological recovery go back at least as far as the early 19<sup>th</sup> century lectures of Ralph Waldo Emerson, and they trace forward to 12-step programs and American forms of psychotherapy, the motivational speeches of self-help gurus, and the personal pronouncements and morally freighted entreaties that made Oprah Winfrey such a powerful cultural force at the turn of the 21<sup>st</sup> century.<sup>18</sup>

Against this cultural backdrop, a growing body of empirical research in psychology examines the kinds of themes and motifs that appear in the stories people construct to make sense of their lives.<sup>19</sup> The basic assumption behind this line of research is that human beings are storytellers by nature and that they define their lives and structure their identities by creating narratives about their reconstructed personal past and imagined future.<sup>20</sup> In many of these stud-

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ams & Brady K. Jones, *Making Meaning in the Wake of Trauma: Resilience and Redemption*, in RECONSTRUCTING MEANING AFTER TRAUMA 3–16 (Elizabeth M. Altmaier ed., 2017).

<sup>13</sup> McAdams, *supra* note 8.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> McAdams & Jones, *supra* note 12.

<sup>19</sup> See, e.g., Jonathan M. Adler, Jennifer Lodi-Smith, Frederick L. Phillippe & Iliane Houle, *The Incremental Validity of Narrative Identity in Predicting Well-Being: A Review of the Field and Recommendations for the Future*, 20 PERSONALITY AND SOC. PSYCHOL. REV. 142 (2016); Dan P. McAdams & Kate C. McLean, *Narrative Identity*, 22 CURRENT DIRECTIONS IN PSYCHOL. SCI. 233 (2013). Jefferson A. Singer, Pavel Blagov, Meredith Berry & Kathryn M. Oost, *Self-Defining Memories, Scripts, and the Life Story: Narrative Identity in Personality and Psychotherapy*, 81 J. OF PERSONALITY 569 (2012).

<sup>20</sup> McAdams, *supra* note 8.

ies, the researchers code transcribed texts of life-story interviews for themes of redemption, as when a demonstrably negative scene is transformed into a positive outcome.<sup>21</sup> The findings reveal that many Americans—from college students to midlife community adults—tend to see their lives as incorporating second acts wherein early negativity is transformed into positive outcomes or results in some kind of redemptive meaning.<sup>22</sup> For example, a woman may narrate how she suffered frustration and abuse in her first marriage and how, following the divorce, she then found the partner of her dreams. Or, a man may lament that his father died at a young age, but then go on to say that this unfortunate event “made me the man of the family and taught me how to take responsibility for my life.”

Again and again in this research literature, empirical studies show that American adults who construe their lives as narratives of redemption tend to enjoy higher levels of psychological well-being, happiness, and a positive engagement with society, as compared to adults whose life stories show fewer redemptive themes.<sup>23</sup> Importantly, redemptive life stories tend to be associated with adult strivings for *generativity*—the concern for helping young people, and promoting future generations.

Redemptive life narratives are also associated with displaying more positive personality traits, such as altruism, compassion, conscientiousness, and emotional stability.<sup>24</sup> And these effects are not simply explained by the notion that redemptive life stories are merely “happier” stories overall. Rather, by their very nature, redemptive life stories contain a great deal of negativity in them—much more negativity than may be seen in simpler, happy stories about success and thriving.<sup>25</sup> Indeed, research demonstrates that narrating a story of suffering followed by a second act of redemption is a much stronger predictor of well-being, statistically speaking, than is narrating what

<sup>21</sup> See, e.g., Dan P. McAdams, Jeffrey Reynolds, Martha Lewis, Allison H. Patten & Phillip J. Bowman, *When Bad Things Turn Good and Good Things Turn Bad: Sequences of Redemption and Contamination in Life Narrative, and Their Relation to Psychosocial Adaptation in Midlife Adults and in Students*, 27 PERSONALITY AND SOC. PSYCHOL. BULL. 472 (2001).

<sup>22</sup> *Id.*

<sup>23</sup> See Jonathan M. Adler, Ariana F. Turner, Kathryn M. Brookshier, Casey Monahan, Ilana Walder-Biesanz, Luke H. Harmeling, Michelle Albaugh, Dan P. McAdams & Thomas F. Oltmanns, *Variation in Narrative Identity is Associated with Trajectories of Mental Health Over Several Years*, 108 J. OF PERSONALITY AND SOC. PSYCHOL. 476 (2015); William L. Dunlop & Jessica L. Tracy, *Sobering Stories: Narratives of Self-Redemption Predict Behavioral Change and Improved Health Among Recovering Alcoholics*, 104 J. OF PERSONALITY AND SOC. PSYCHOL. 576 (2013); Dan P. McAdams & Jen Guo, *Narrating the Generative Life*, 26 PSYCHOL. SCI. 475 (2015).

<sup>24</sup> Jen Guo, Miriam Klevan & Dan P. McAdams, *Personality Traits, Ego Development, and The Redemptive Self*, 42 PERSONALITY AND SOC. PSYCHOL. BULL. 1551 (2016).

<sup>25</sup> McAdams, Reynolds, Lewis, Patten & Bowman, *supra* note 21, at 475–76.

is judged to be a simple happy story about life.<sup>26</sup> The suffering is necessary—it sets up the redemptive second act. No pain, no gain.

### III. REDEMPTIVE LIFE NARRATIVES IN *THE WIRE*

Emerging as a main character in Season Three of *The Wire*, Dennis “Cutty” Wise seems to make good on a second chance. In his life’s first act, Cutty was a loyal soldier for Avon Barksdale’s drug gang. He was part of the “muscle” that Avon depended on to keep things running smoothly and to fend off the competition. In the line of duty, Cutty shoots a man and is arrested.<sup>27</sup> His subsequent conviction results in his serving a 14-year prison sentence.<sup>28</sup> Upon his release, Cutty turns almost immediately back to the drug game.<sup>29</sup> Avon, himself briefly behind bars but still firmly in control of the “corners,” sets Cutty up with an opportunity.<sup>30</sup> But Cutty sees quickly that the game has changed while he was away. Loyalty is no longer valued, and the streets seem to be ruled by a more brutal code than he recalls from his early days. Cutty cannot quite bring himself to adapt to this new environment.<sup>31</sup> In a raid on one of Marlo’s corners, Cutty aims his gun at Fruit, who had once humiliated Cutty and stole his drug money.<sup>32</sup> But he can’t pull the trigger.<sup>33</sup> Later, Cutty tells Avon, “I ain’t got it in me no more.”<sup>34</sup>

Cutty’s second act begins when he decides to leave the game and get a legitimate job. He tries doing yard work with a Mexican crew, but the work is hard and the pay is meager.<sup>35</sup> He then decides to draw upon one of the few sources of personal capital that he can summon up from his past—boxing. Like Avon, Cutty was a boxer in his youth. With the help of a local pastor and a state delegate, and with a cash infusion from Avon himself, Cutty sets up a rag-tag gym where he trains local boys in the art of boxing.<sup>36</sup> He eventually succeeds, to some

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<sup>26</sup> *Id.*

<sup>27</sup> *The Wire: All Due Respect* (HBO television broadcast Sep. 26, 2004) (Season Three, Episode Two).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *The Wire: Hamsterdam* (HBO television broadcast Oct. 10, 2004) (Season Three, Episode Four).

<sup>31</sup> *The Wire: Homecoming* (HBO television broadcast Oct. 31, 2004) (Season Three, Episode Six).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *The Wire: All Due Respect*, *supra* note 27 (Season Three, Episode Two).

<sup>36</sup> *The Wire: Middle Ground* (HBO television broadcast Dec. 12, 2004) (Season Three, Episode Eleven).

extent at least, in moving some of the boys off the streets and away from the drug corners. Cutty takes special interest in Michael Lee, who displays a natural talent for boxing. And Cutty is ultimately instrumental in getting Namond Brice off the streets: Cutty arranges a sit-down between Namond's imprisoned father (Wee-Bay) and Officer Howard ("Bunny") Colvin.<sup>37</sup> In his second act, Cutty becomes something of a role model in the community, a solid citizen, more or less, for the first time in his life. His success wins him unexpected attention, too, from many of the local women.

By Season Four of *The Wire*, Police Officers Roland Pryzbylewski ("Prez") and Jimmy McNulty also seem to have made good on second chances. A police detective hired on the strength of family connections rather than aptitude, Prez shows promise at code-breaking, but is mainly hapless, incompetent, and overly impulsive. At one point, he shoots up his own squad car in a panic and then calls in a false report.<sup>38</sup> He pistol-whips a teenager with his service weapon, leaving the boy blind in one eye.<sup>39</sup> He accidentally kills a fellow police officer in a late-night case of mistaken identity, and leaves the police force in disgrace.<sup>40</sup> But after this short and disastrous career in the Baltimore Police Department, Prez finds his calling and his redemption as a math teacher at Edward Tilghman Middle School.<sup>41</sup> He turns out to be a dedicated and compassionate teacher who establishes close relationships with many of his students, nearly all of them from impoverished and fragile families.

Jimmy McNulty has a shot at a second chance as well. Temporarily casting aside some of his own demons (for example, a dysfunctional relationship with his ex-wife, incessant drinking and risk taking), McNulty settles down in Season Four with another officer, Beadie Russell, and her two kids.<sup>42</sup> For the first time in his life, he experiences a sense of peace and life satisfaction. But the transformation proves short-lived. In Season Five, Jimmy launches a rogue investigation based on an illegal wiretap. To justify the diversion of police resources to this investigation he cares about, Jimmy fabricates a case involving a purported serial killer.<sup>43</sup> Chaos ensues as the press, the police brass,

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<sup>37</sup> *The Wire: Final Grades* (HBO television broadcast Dec. 10, 2006) (Season Four, Episode Thirteen).

<sup>38</sup> *The Wire: The Detail* (HBO television broadcast June 9, 2002) (Season One, Episode Two).

<sup>39</sup> *Id.*

<sup>40</sup> *The Wire: Slapstick* (HBO television broadcast Nov. 21, 2004) (Season Three, Episode Nine).

<sup>41</sup> *The Wire: Boys of Summer* (HBO television broadcast Sep. 10, 2006) (Season Four, Episode One).

<sup>42</sup> *Id.*

<sup>43</sup> *The Wire: Unconfirmed Reports* (HBO television broadcast Jan. 13, 2008) (Season Five,



and local politicians are taken in by the tale. After confessing his deception to Beadie, Jimmy exhibits rare insight, admitting, “I don’t know where the anger comes from.”<sup>44</sup> In the end, Jimmy is forced out of the police department,<sup>45</sup> and the viewing audience is left to wonder if he will ever make good.

For Cutty, Prez, and (for a while) Jimmy, finding redemption in a second act appears to require three moves—moves that, as we will see, are relevant not only for these characters, but for their real-life counterparts as well. First, each man must make a clean break from the past. In his book, *Making Good*, the noted criminologist Shadd Maruna documents how many ex-offenders eventually turn their lives around.<sup>46</sup> The first step, he writes, is to create a new story for life that completely disavows, or knifes off, the protagonist who appeared in the first act.<sup>47</sup> There is no going back, no recovery of a paradise lost—because there was no paradise in the first place. So Cutty leaves the drug trade behind him to set up a gym; Prez, in disgrace, departs from law enforcement; and Jimmy stops drinking.

Second, Cutty, Prez, and Jimmy each find a social role that enables each of them to translate his new story into real-life action and behavior change. With the help of others in the community (such as ministers, teachers, and friends), they come to occupy a local niche that is respected and affirmed: coach, teacher, beat cop.

Third, each of the three makes a meaningful connection to the next generation—to young people. Cutty’s young boxers look up to him and need him, as do Prez’s distressed middle-schoolers, and, for Jimmy, Beadie’s children and his own. Importantly, Cutty, Prez, and Jimmy need to play a role for the young people, as well. In psychological terms, the third step toward redemption is acting upon the adult impulse for *generativity*, or the desire to have a positive impact on future generations.<sup>48</sup> A growing body of empirical research in psychological science shows that generativity and redemptive life stories tend to go together.<sup>49</sup> Highly generative American adults tend to construct life

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Episode Two).

<sup>44</sup> *The Wire: Clarifications* (HBO television broadcast Feb. 18, 2008) (Season Five, Episode Eight).

<sup>45</sup> *The Wire: -30-* (HBO television broadcast Mar. 9, 2008) (Season Five, Episode Ten).

<sup>46</sup> See generally, SHADD MARUNA, *MAKING GOOD: HOW EX-CONVICTS REFORM AND REBUILD THEIR LIVES* (2000).

<sup>47</sup> *Id.*

<sup>48</sup> See generally, ERIK H. ERIKSON, *CHILDHOOD AND SOCIETY* (2d ed. 1963); Dan P. McAdams & Ed de St. Aubin, *A Theory of Generativity and Its Assessment Through Self-Report, Behavioral Acts, and Narrative Themes in Autobiography*, 62 *J. OF PERSONALITY AND SOC. PSYCHOL.* 1003 (1992).

<sup>49</sup> McAdams, *supra* note 8; Dan P. McAdams, *The Positive Psychology of Adult Generativity: Caring for the Next Generation and Constructing a Redemptive Life*, in *POSITIVE PSYCHOLOGY:*

stories that are filled with redemptive themes.<sup>50</sup> And redemptive second acts are often about finding a way to construct a legacy of the self—to make a positive mark on future generations.

#### IV. THE CASE AGAINST REDEMPTION: D'ANGELO TURNS OUT TO BE (MOSTLY) RIGHT

To the extent then that characters make good on second chances in *The Wire*, Cutty and Prez are about as good as it gets. Toward the end of the final season, there also seems to be a glimmer of a second chance for Bubs, the loveable drug addict and itinerant wholesaler who may have finally kicked the habit. And the young Namond, born of a gangbanger but given a second chance through the generative efforts of Bunny and Cutty, has an improbably brighter future as a student who has escaped the inner city and taken up the cause of AIDS relief in Africa.<sup>51</sup>

But in over 60 hours of television, these few cases wherein characters make good on a second chance are a rather paltry yield. Even Cutty seems frustrated by the end of the show. In a scene redolent with regret and resignation, he tells Duquan (“Dukie”) Weems that success (indeed redemption) in life means getting to the world that lies, so he has heard, outside of Baltimore.<sup>52</sup> Cutty acknowledges sadly that he has never figured out how to get there.<sup>53</sup> Jimmy McNulty’s life story seems rather more paradigmatic in the end—second chances frustrated, just missing out, repeating the same damn mistakes over and over and leaving a wake of destruction in one’s path, ambivalence in the here-and-now, uncertainty for the future.

The discouraging truth is that redemptive second acts are the rare exception rather than the rule in *The Wire*. Instead, many characters never get a second chance, or choose not to take one, or squander the opportunities for redemption that may in fact arise in their lives.

Avon Barksdale personifies what is probably the most common narrative arc in *The Wire*. It is a simple story: The first act repeats and repeats and repeats. During his first stint in prison and upon his return to the streets, Avon never even considers the idea of knifing off the past. Avon’s partner, Stringer Bell, urges Avon to leave the game

ADVANCES IN UNDERSTANDING ADULT MOTIVATION 191 (Jan D. Sinnott ed., 2013); McAdams & Guo, *supra* note 23.

<sup>50</sup> *Id.*

<sup>51</sup> *The Wire: Late Editions* (HBO television broadcast Feb. 25, 2008) (Season Five, Episode Nine).

<sup>52</sup> *The Wire: React Quotes* (HBO television broadcast Feb. 3, 2008) (Season Five, Episode Five).

<sup>53</sup> *Id.*

behind and invest their vast cash wealth in “legitimate” real estate development, but Avon is not interested.<sup>54</sup> Ultimately betrayed by Stringer, Avon is re-incarcerated at the end of Season Three.<sup>55</sup>

Frank Sobotka, the leader of the dockworkers union, may be even more trapped by the past than Jimmy and Avon. If the politicians in Annapolis would just authorize the dredging of Baltimore Harbor, Frank believes, his mostly white, working class compatriots would be able to flourish again. The dream proves to be ephemeral, even foolish. The painful inevitability of it all becomes crystal clear over the course of Season Two, as the audience witnesses the steady decline of an entire demographic, represented hauntingly in Frank’s own corpse pulled up from the harbor.<sup>56</sup> In the end, he is the victim of his own desperate desire to keep the union afloat through an ill-fated criminal sideshow.<sup>57</sup> Frank, in D’Angelo’s words, is unable to give himself a new story.

More than any other character perhaps, Stringer Bell self-consciously strives to construct a better second act for his life. What he aims for is the rags-to-riches story of the American Dream—upward social mobility, but gangster style. The narrative is not unlike that of Vito Corleone in *The Godfather*, or even that of Gatsby himself. Over the first three seasons, the audience witnesses Stringer’s aspiring transformation from drug lord to earnest business student to dapper real estate developer. Unlike Avon or Frank, Stringer wants to move beyond Act 1. You do not need to drop bodies to make easy money in Baltimore, he believes. Instead, you need to be smart, and ruthlessly opportunistic. But in going up against the likes of State Representative Clay Davis and the corrupt Baltimore bureaucracy, Stringer proves to be not smart enough.<sup>58</sup> And in going up against Omar Little and Brother Mouzone, who ultimately kill Stringer in a shootout, he proves to be not quite ruthless enough.<sup>59</sup> In a word, Stringer Bell never really knifes off his past, despite the good grades in his accounting class and the beautiful suits he wears. Stringer’s story is perhaps the

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<sup>54</sup> *The Wire: Straight and True* (HBO television broadcast Oct. 17, 2004) (Season Three, Episode Five).

<sup>55</sup> *The Wire: Mission Accomplished* (HBO television broadcast Dec. 19, 2004) (Season Three, Episode Twelve).

<sup>56</sup> *The Wire: Port in a Storm* (HBO television broadcast Aug. 3, 2003) (Season Two, Episode Twelve).

<sup>57</sup> Sobotka hopes to save his son Ziggy from a murder conviction. He attempts to make a deal to “fix” the case with an Eastern European gangster known as “The Greek,” but the Greek suspects Sobotka of cooperating with law enforcement and the meeting ends with Sobotka’s throat being slashed. *Id.*

<sup>58</sup> *The Wire: Middle Ground*, *supra* note 36 (Season Three, Episode Eleven).

<sup>59</sup> *Id.*

most dramatic proof for D'Angelo's fateful assertions: "The past is always with us";<sup>60</sup> "What came first is who you really are."<sup>61</sup>

For the series as a whole then, D'Angelo's interpretation at the book club seems to be, unfortunately, dead on. Second chances may be available, but are rarely recognized; and when they do appear, they are, with a few notable exceptions, squandered or lost. Indeed, D'Angelo's words turn tragically self-prophetic, as well. There would and could never be a second act for him. Serving 20 years for the same kind of crime Cutty committed, D'Angelo tries to knife off his own past in prison. He severs ties with his family, renounces Avon and the entire drug culture, and desperately seeks a different narrative for his life.<sup>62</sup> But there is no escape in the prison from the gangs and the Baltimore streets. Hours after he delivers his moving oration on *The Great Gatsby*, D'Angelo is dead—strangled in the library, steps from the table where the book club has just met.<sup>63</sup> D'Angelo wanted to "get real with the story." He longed for a second act. But, "that shit," well, it "caught up to him."<sup>64</sup>

#### V. SECOND ACTS IN REAL LIFE: POSSIBILITIES FOR REDEMPTION IN THE CRIMINAL JUSTICE SYSTEM

In American society today, does "that shit" catch up to individuals who find themselves caught in the real-life criminal justice system? A question for any federal district judge is what role the criminal justice system might play in promoting second chances for persons whose first act was a sad or ugly one. The difficulties faced by the young drug dealers in *The Wire* may seem exaggerated at first blush, but most judges serving in large urban courts would readily cite real-world parallels.

As illustrated in the show, courts are, of course, just one of the variety of legal and civil institutions struggling to make a difference in troubled lives. Like real-life urban leaders, many of the characters in the show care deeply about the City of Baltimore and its residents. Some of those characters have concluded that whatever they have been doing up to now is not working. Howard "Bunny" Colvin is so torn up about the violence on the corners, so anxious to create some safe haven in Baltimore, that he effectively legalizes the drug trade in small pockets of the city.<sup>65</sup> The program is effective, at least temporar-

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<sup>60</sup> *The Wire: All Prologue*, *supra* note 1 (Season Two, Episode Six).

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *The Wire: Hamsterdam*, *supra* note 30 (Season Three, Episode Four).

ily, which raises this societal question: Would large-scale legalization of street drugs help to stem the tide of drug violence? *The Wire* invites us to consider this question and provides a vivid illustration of the potential consequences of at least one attempt at social engineering.

Against difficult odds, other local government actors, too, seek to promote a safer and more hopeful future for urban residents. Mayor Tommy Carcetti mixes his reform agenda with a healthy dose of personal ambition. Success for him might also offer a second chance for a struggling city, if he can somehow figure out how to stretch an inadequate budget and make uneasy peace with the embedded corruption. Can middle school offer a second chance to such a lost young soul as Duquan Weems? The last episode suggests the answer is—well, not really.<sup>66</sup>

The police, elected officials, schools—all play a role in the lives of troubled young people. Too often, though, the institution that plays the most direct role is the legal system. Dukie, like so many other characters, drops out and pursues what appears to be the only, or the best, way to make money: the drug trade. For those few on top of the food chain (think of Avon or Stringer), it can be possible to stay at a distance from the transactions, pull in a steady income, and stay out of trouble, at least for a time. For far more, the money is limited and the risk of apprehension is great. Once that happens, it is the legal system that intervenes—to interrupt the drug trade and, sometimes, to give the offenders a second chance.

The sentencing process itself gets little air time in *The Wire*, but it is a complicated one in real life. Before sentencing, federal judges receive lengthy reports from the Probation Office, reviewing the offense conduct, aggravating and mitigating circumstances, the defendant's criminal history, his personal life, and his education and employment.<sup>67</sup> The information presented is critical in determining the appropriate Sentencing Guideline calculations.<sup>68</sup> But in addition to details concerning the offense conduct, the Probation Officer devotes attention to the offender's personal history and characteristics, which the court is required by law to consider in handing down an appropriate sentence.<sup>69</sup> Here are some paragraphs in such a report, submitted for a recent sentencing, lightly edited to conceal identities:

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<sup>66</sup> *The Wire: Final Grades*, *supra* note 37 (Season Four, Episode Thirteen).

<sup>67</sup> The United States Probation Office prepares a presentence report which includes a calculation of the advisory Guidelines. FED. R. CRIM. P. 32(d)(1)(A)–(C); *see generally* 18 U.S.C. § 3552(a). For a discussion of the use of the report, *see Molina-Martinez v. United States*, 136 S.Ct. 1338 (2016).

<sup>68</sup> *Id.*

<sup>69</sup> 18 U.S.C. § 3553(a)(2010) states that a sentence should be “sufficient, but not greater than necessary” to comply with the purposes set forth therein. Among those/the things the court

In six months, the defendant and his coconspirators distributed at least one kilogram of heroin. Based on that factor alone, this offense is not to be considered minor.

. . . . The defendant described a difficult childhood. He was reared by his maternal grandmother; he never met his father; he had minimal contact with his mother. The defendant reportedly suffered two head injuries; he has been diagnosed with ADHD and depression; and was hospitalized on numerous occasions. The defendant advised that he was not abused or neglected as a child, and he denied gang involvement, although a single arrest report states that he affiliated with the \_\_\_\_\_ street gang. Accordingly, his statement denying gang involvement may not be accurate.

The defendant lacks a high school education as well as employment skills. The defendant has fathered three children, and although he remains involved with the mother of one of the children, he is not certain he will maintain that relationship. The defendant has a significant history of substance abuse; his grandmother stated he is developmentally delayed; and he admitted that he is currently depressed.

This final clause can come as no surprise. It is hard to imagine a rational person who would not find these circumstances depressing.

Here is another excerpt, this one from a sentencing memorandum prepared by defense counsel:

[The Defendant] is twenty-eight years old. He never met his father and was raised by his grandmother. He had no meaningful relationship with his mother as he grew up as an only child. Defendant . . . believed that his mother was his sister until he was ten years old. He was not a good student in school and he was considered a "class clown". Defendant fathered his first child at age seventeen. He suffered head injuries from falls as a child and has been suffering from Attention Deficit Disorder ("ADHD") and takes medication to help control his behavior. He is a slow learner . . . and never completed the ninth grade. He was shot multiple times several years ago, and two of the bullets remain in his body. He has also been treated for depres-

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should consider are (i) the nature and circumstances of the offense; (ii) the history and characteristics of the defendant; (iii) the need for the sentence imposed to reflect the seriousness of the offense, respect for the law, and provide just punishment; (iv) adequate deterrence; (v) protect the public from further crimes by the defendant; and (vi) to provide the defendant with needed educational and vocational training etcetera.

sion. His grandmother describes him as kind-hearted, but extremely hyper. She believes that he is developmentally delayed and likely functioning at the age of a 14-year-old. He has a significant history of substance abuse . . . beginning at the age of 13 . . . He has no vocational skills and he has never held a job.

One more presentence report, similarly heartbreaking, is eerily reminiscent of the situations of Wallace or of Michael Lee in *The Wire*:<sup>70</sup>

During the presentence interview, [Defendant] recalled a troubled upbringing. His mother was unable to adequately care for him and his younger siblings. The defendant has never met his biological father, and reported his mother has serious mental health issues that she does not properly address. Moreover her drug addiction has historically contributed to her instability. When discussing his upbringing it is evident that [Defendant] was reared in a dysfunctional environment that lacked sufficient positive role models. By default he was left unsupervised and cared for his younger siblings. During the presentence interview [Defendant] described feeling rejected and alienated . . . Available information indicated that the defendant suffers from depression and anxiety. He has been prescribed medication to manage his condition. The defendant also discussed a serious alcohol and drug addiction which will require treatment. He has suffered from injuries due to a gunshot wound in 2016. He has one minor child with whom he maintained visits prior to being incarcerated, but his relationship with the child's mother has dissolved due to the defendant's lifestyle. Defendant lacks significant formal education as he did not complete high school, and his employment history is limited.

In each of the cases featured here, the defendant pleaded guilty. As is well-recognized, the vast majority of criminal cases end in guilty pleas rather than trials. The defendant who pleads guilty often expresses remorse. He or she is prepared to “knife off” the past and turn things around: The defendant will assure the judge that what hap-

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<sup>70</sup> Wallace is a drug dealer so young he is seen in one episode in the first season playing with a toy; but he takes responsibility of providing food for still younger homeless children. Michael Lee's character in *The Wire*, similarly, attempts to “parent” his younger half-brother, Bug, because their mother is a drug addict. When Bug's father returns from prison, Michael is desperate to get rid of him, perhaps because Michael was a victim of sexual abuse at the father's hands. Depressed and distrustful, Michael falls in with drug dealers who themselves turn on him. Like the defendants described in the text, many characters on the streets in *The Wire* have dropped out of school, have no legitimate employment history, and are themselves vulnerable to substance abuse and addiction.

pened was a “mistake” or “wasn’t me,” that he has learned his lesson, or that he desperately wants a second chance. Often during the time between arrest and sentencing, while the defendant’s activities are monitored by court officers, there has in fact been constructive change—a period of sobriety, for example, or a steady job.

The probation officer’s report often notes that the defendant had “acknowledged his guilt in this case” and was “cooperative.” Acknowledging guilt is, of course, a most important first step, and is part of creating that “new story” directly connected to the possibility of a second chance. Recognizing the value of such an admission, the Sentencing Guidelines give defendants a significant break for a timely guilty plea.<sup>71</sup> Will the criminal justice system otherwise give these young men, so obviously behind the eight-ball to begin with, a second chance? Or perhaps even the first chance they have ever had? Can any of the young men hope for a future, even one as modest as what Cutty found? Might any of them be able to offer a second chance to somebody else, as Wee Bey does when he relinquishes Namond, to be fostered by Bunny Colvin and his wife?<sup>72</sup>

## VI. A CASE FOR REDEMPTION: SENTENCING AS END AND BEGINNING

The courts themselves do indeed aim for second chances. Good intentions and thoughtful efforts abound. We engage in drug diversion programs and what are called “re-entry courts.”<sup>73</sup> We encourage alternatives to incarceration, like “shock boot camps.”<sup>74</sup> But in the vast majority of cases, the “second chance” focus is on the sentencing process itself.

It is worth reviewing the recognized goals of sentencing. First, there is *general deterrence*—the idea that the possibility of a harsh sentence might deter other would-be offenders.<sup>75</sup> This idea appears to be on prosecutor Rhonda Pearlman’s mind at the end of Season One, when D’Angelo declines the opportunity to cut a deal and is sent away for 20 years.<sup>76</sup> The judge and the prosecutor know, or at least hope,

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<sup>71</sup> See U.S. SENTENCING COMMISSION, GUIDELINES MANUAL, § 3E1.1 (Nov. 2016), <https://www.uscc.gov/sites/default/files/pdf/guidelines-manual/2016/GLMFull.pdf> [<https://perma.cc/LF75-VGTU>].

<sup>72</sup> *The Wire: Final Grades*, *supra* note 37 (Season Four, Episode Thirteen).

<sup>73</sup> Daniel M. Fetsco, *Reentry Courts: An Emerging Use of Judicial Resources in the Struggle to Reduce Recidivism of Released Offenders*, 13 WYO. L. REV. 591, 592 (2013) (defining reentry court as a “court that directly involves itself in the process of assisting offenders with the journey from prison back to the community”).

<sup>74</sup> *Developments in the Law—Alternatives to Incarceration for Drug-Abusing Offenders*, 111 HARV. L. REV. 1898, 1899 (1998).

<sup>75</sup> 18 U.S.C. § 3553(a)(2)(B).

<sup>76</sup> *The Wire: Sentencing* (HBO television broadcast September 8, 2002) (Season One, Episode



that this steep sentence will not be a secret to other members of the drug distribution operation.<sup>77</sup> At a minimum, they can hope that D'Angelo's ultimate refusal to cooperate with the police has cost him dearly, and that other participants will, thereby, recognize the value of cooperation.

Second, there is *specific deterrence*.<sup>78</sup> This is, quite simply, a determination to discourage repeat criminal conduct by *this* particular individual, if by no other means than separating him from society for a period of time. A life sentence for Chris Partlow of *The Wire* makes perfect sense for this purpose.<sup>79</sup> Partlow commits more murders than any other character in this very violent series, acting as "enforcer" for drug kingpin Marlo Stanfield. There may be no obvious way to stop the carnage beyond putting Partlow out of action for many years.

A third goal in sentencing is *retribution*—a payback.<sup>80</sup> Judges and prosecutors communicate to victims that society cares about the wrongs done to them by taking harsh punitive action against the wrongdoer. Tommy Carcetti makes reference to this purpose in his passionate speeches about the victims of Jimmy McNulty's mythical serial killer of homeless men.<sup>81</sup> The fact is that the families and children who pay the price for a culture of gun violence and drug trafficking are often the least among us: those who, if not homeless, struggle to make lives and homes in neighborhoods where their physical safety is always in jeopardy. Failure to penalize the individuals who terrorize these neighborhoods would suggest that those American citizens fortunate enough to live in safety believe that it does not matter because the victims are not "us."

Finally, there is the sentencing goal that is most relevant to the point of second chances: *rehabilitation*.<sup>82</sup> Most public attention is on the number of months or years of a potential prison sentence—an agonizing decision for any judge in any context. The Federal Sentencing Guidelines influence this decision in substantial measure, making the decision easier in some perverse ways, harder in others. The Guidelines call for remarkably detailed calculations that take into account a variety of factors: the offense conduct; quantities of drugs sold; financial loss to the victims, whether actually caused or just intended; the use of weapons; whether the crime involves violence; nature of the vic-

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Thirteen).

<sup>77</sup> *Id.*

<sup>78</sup> § 3553(a)(2)(C).

<sup>79</sup> *The Wire*: -30-, *supra* note 45 (Season Five, Episode Ten).

<sup>80</sup> § 3553(a)(2)(A).

<sup>81</sup> *The Wire: The Dickensian Aspect* (HBO television broadcast Feb. 10, 2008) (Season Five, Episode Six).

<sup>82</sup> § 3553(a)(2)(D).

tims, who may be particularly vulnerable; the sophistication and duration of the criminal activity; and dozens of other aggravating and mitigating circumstances.<sup>83</sup> Whatever views one may have about the Guidelines, it is obvious that they are sensitive to nuance. Nor do they dictate the appropriate sentencing result. Post-*United States v. Booker*,<sup>84</sup> judges have discretion to impose sentences shorter or, less frequently, longer than those called for by the Sentencing Guidelines. At least as important is the role prosecutors play in negotiating deals; recall the effort to “flip” D’Angelo before he succumbs to pressure from his mother to remain loyal to the family drug operation.<sup>85</sup> Nick Sobotka, no stranger to his uncle’s off-the-book shipments of contraband on behalf of “the Greek,” escapes a steep sentence for his own drug dealing when he agrees to cooperate with law enforcement.<sup>86</sup>

The reality for the vast majority of federal offenders, even those who cooperate, is a lengthy custody sentence. Judges impose these sentences not only because the law calls for them, but also because in at least some cases, isolation from the offender’s life circumstances appears to be necessary to protect the public (that is, for specific deterrence), but also to give that individual a second chance. A prison term separates the offender from his family and from his future; it can be heartbreaking. But it also separates the offender from the tense or hopeless circumstances that surrounded his or her offense conduct, and gives the offender a chance to think of himself or herself as someone new and different from the past self.

Custody time is not the end of the rehabilitation effort. At the time of sentencing, judges also impose “supervised release” conditions, which govern the defendant’s activities after release from incarceration.<sup>87</sup> The various conditions contemplated were not influenced by the psychological research described above; but to a large extent, the conditions imposed do attempt to accomplish the three goals described there: a clean break from the past; adoption of a recognized social role; and an opportunity for generativity.

Thus, the conditions of supervised release: the federal sentence routinely requires that persons on supervised release refrain from new criminal activity, including drug use.<sup>88</sup> The court directs them to sub-

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<sup>83</sup> See U.S. SENTENCING COMMISSION, GUIDELINES MANUAL, § 3E1.1 (Nov. 2016), <https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2016/GLMFull.pdf> [<https://perma.cc/LF75-VGTU>].

<sup>84</sup> 543 U.S. 220 (2005).

<sup>85</sup> *The Wire: Sentencing*, *supra* note 76 (Season One, Episode Thirteen).

<sup>86</sup> *The Wire: Bad Dreams* (HBO television broadcast Aug. 17, 2003) (Season Two, Episode Eleven).

<sup>87</sup> 18 U.S.C. § 3583(d) (setting forth the conditions of supervised release).

<sup>88</sup> *Id.*

mit to random drug testing, and if the tests are positive, to continue with drug treatment even after the custody term is complete.<sup>89</sup> The sentencing documents often restrict alcohol consumption.<sup>90</sup> With a nod to the “knife it off” prescription described earlier, judges routinely direct offenders to have no contact with other persons known to be involved in criminal activity. Courts expect the defendants to terminate their gang affiliation, if any, and often specifically identify co-defendants as persons with whom they should have no further contact.

As noted, a second chance calls for the offender to take on a meaningful and legitimate social role. To that end, judges require persons to engage in lawful employment, or in training or education that might result in lawful employment. As unrealistic as it might be, the criminal sentencing judgment always requires offenders to pay back their victims for the money taken or the harm done.<sup>91</sup> A standard condition of supervised release is that the offender provide support for his or her family members. It is well-recognized that persons with felony convictions often have a hard time finding work. In many instances, individuals being sentenced have never had lawful employment, even before being incarcerated. For at least some of these individuals, the opportunity to learn any skill, even in custody, is significant. Again, recall D’Angelo, assigned to work in the prison library and being exposed for the first time to the sense of calm generated by orderly stacks of books.<sup>92</sup> In virtually every case in which supervised release is successful, the former offender, against the odds, has found employment.

Finally, judges expect persons on supervised release to “give back.” Even those persons desperately in need of social supports for themselves recognize that they are not alone. The deeply human desire to assist someone else is illustrated well in *The Wire*. It is not only Cutty with his boxing program, Prez teaching mathematics, or Bunny taking Namond under his wing. D’Angelo sees that Wallace has lost his taste for “the game” and encourages him to return to school.<sup>93</sup> Avon Barksdale finances Cutty’s boxing gym.<sup>94</sup> When Bubs realizes that his young accomplice, Sherrod, cannot do basic arithmetic, he attempts to enroll Sherrod in school.<sup>95</sup> And after finally shaking his own long drug habit, Bubs begins volunteering at a local soup kitchen.<sup>96</sup>

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<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> 18 U.S.C. § 3556 allows courts to order restitution.

<sup>92</sup> *The Wire: Hot Shots* (HBO television broadcast June 15, 2003) (Season Two, Episode Three).

<sup>93</sup> *The Wire: Game Day* (HBO television broadcast Aug. 4, 2002) (Season One, Episode Nine).

<sup>94</sup> *The Wire: Middle Ground*, *supra* note 36 (Season Three, Episode Eleven).

<sup>95</sup> *The Wire: Soft Eyes* (HBO television broadcast Sep. 17, 2006) (Season Four, Episode Two).

<sup>96</sup> *The Wire: Unconfirmed Reports*, *supra* note 43 (Season Five, Episode Two).

Persons with criminal records often struggle to find employment; but they can engage in prosocial volunteer activities, and judges routinely order that persons on supervised release perform community service during weeks that gainful employment is beyond reach. Of course, the hope is that their contribution will be of use to the community. But equally important is the hope that community engagement will be part of the offender's own second chance.

Two final words about sentencing:

The first is something not seen on *The Wire*: that is, regardless of his or her philosophy or politics, sentencing is probably the hardest thing a judge ever does. Sending a young man (they are nearly always young men) away, to spend the best, most significant years of life behind bars, is wrenching and tragic. No judge of any political bent takes the slightest pleasure in this act.

Second, we judges are realists. Every judge who has been on the bench for some time has had the satisfying experience of witnessing a successful rehabilitation. When an offender has become "clean" of substance abuse, has gotten a job, and has been making restitution payments, he or she may ask the judge to terminate supervised release early. Few moments on the bench are more satisfying than seeing the defendant's face light up when such a motion is granted. Few moments off the bench are more satisfying than stepping down to shake that person's hand and wish him well. *This does happen.*

Yet we judges recognize the limitation on our ability to effect change. Judges are very conscious that offenders "age out" of criminal activity.<sup>97</sup> Cutty is an example: being in prison itself seems to have had little effect on him. But upon release, he realizes he no longer fits in with the "hoppers" who helped him get around the drug testing requirement. So Cutty is redeemed, to some degree, but there is no reason to conclude that it was the years in prison that redeemed him. We impose supervised release conditions, and we hope they will make a difference. In short, we play our role as best we can, and hope that there is redemption for at least some of the individuals that appear before us. We search constantly for ways to encourage the new start, the new social role, and the new opportunity to make a contribution.

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<sup>97</sup> See John H. Laub & Robert J. Sampson, *Understanding Desistance from Crime*, 28 CRIME & JUST. 1 (2001) (discussing the correlation between aging and desistance from crime).

## VII. CONCLUSION

A few of the characters in *The Wire* make good on second chances. For many others, however, “that shit” catches up to them, and the possibilities for change are limited. The show’s many fans come to know the characters and to care deeply for them—heartbroken at Wallace’s murder, outraged when a potential second chance slips away from D’Angelo, disappointed when McNulty fails to turn his life around. The situation is not so different for individuals caught up in the gritty circumstances of the drug trade in any large American city today. Whether a second chance is available to any such individual cannot be predicted with genuine confidence, and it may be difficult to summon up concern for these real-life individuals whose activities do real-life damage to urban neighborhoods.

In the criminal justice system, second chances may nonetheless still be possible, at least for some, and may best be achieved by criminal offenders who can accomplish the following: those who are able to “knife off” the past, and disassociate from other offenders; train for work in some context that offers a sense of purpose; and find a way to reach out to someone else in need. These circumstances do not guarantee success, but they may enhance the possibility of a second chance for individuals struggling in the nonfictional world, beyond *The Wire*.