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# True Criminal?: An Analysis and Discussion of the Crimes Committed by Detective Rustin Cohle in Season One of HBO's Mini-Series True Detective

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# True Criminal?: An Analysis and Discussion of the Crimes Committed by Detective Rustin Cohle in Season One of HBO's Mini-Series True Detective

## **Abstract**

The purpose of this Article is to identify and discuss the numerous laws that Cohle broke during the course of the eight episodes – each episode is discussed separately in Sections II through IX. Here, an extremely important point needs to be made – this Article is not intended to pinpoint exactly how many laws that Cohle would likely be convicted of violating; rather, as is the case generally in the legal profession, many of the actual offenses and charges would be subject to prosecutorial discretion and therefore reasonable minds may disagree with the exact charge. To the extent possible, this Article discusses the potential criminal charges that may be brought against Cohle but clearly understands that the actual number and degree may vary greatly, particularly in different jurisdictions and with different prosecutors. To that end, the Article will only tally and calculate potential state law charges but may make reference to some potential federal crimes where applicable. In an effort to keep track of the various charges and potential maximum sentence, the Article will keep the Cohle Crime Count (“CCC”) and Cohle Maximum Sentence Tally (“CMST”) after each potential charge in the footnotes and will assume a potential consecutive sentence. Further, since the show takes place in three distinct time periods, to avoid any confusion, the current statutes will be cited – even though in criminal proceedings the law at the time of the commission of the crime is applicable and no statute of limitations will apply. Additionally, in Sections II, A. and V, A., the Article will briefly address a few of the more critical legal issues raised in the show. For example, it will posit that Cohle’s entire videotaped interview in 2012 – when he was the subject of an investigation similar to the Dora Lange murder from 1995 – would have been admissible in a subsequent proceeding against him, if any, regardless of the fact that he had been drinking alcohol purchased by and provided to him by the investigating detectives, Detective Maynard Gilbough and Detective Thomas Papania. Moreover, if Cohle was actually charged for any crimes while conducting his rogue investigation in Episodes Four and Five, the Article discusses his potential defense of acting in an undercover capacity and concludes such a defense would likely not be successful. By the end, the Article will quantify, with some degree of specificity, Cohle’s statement that, throughout the course of the show, he did in fact do “terrible things” with impunity.

## **Keywords**

True Detective, television crime dramas, HBO

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## TRUE CRIMINAL?: AN ANALYSIS AND DISCUSSION OF THE CRIMES COMMITTED BY DETECTIVE RUSTIN COHLE IN SEASON ONE OF HBO’S MINI-SERIES TRUE DETECTIVE

*Kevin J. Cimino*<sup>\*</sup>

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*“Of course I’m dangerous. I’m police. I can do terrible things to people with impunity.”<sup>1</sup>*

- Detective Rustin Cohle

#### INTRODUCTION

Tony Soprano,<sup>2</sup> Al Swearengen,<sup>3</sup> Omar Little, and Stringer Bell<sup>4</sup> are just a few of the antagonistic characters portrayed on successful television shows created by Home Box Office, Inc. (“HBO”). Those men murdered, robbed, cheated, and lied on a regular basis to reach popularity and legendary status amongst television viewers. On January 12, 2014, HBO introduced a new set of law-breaking cavalier men in the first season of the series *True Detective*, which starred Matthew McConaughey and Woody

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1. *True Detective: Seeing Things* (HBO television broadcast Jan. 19, 2014).

2. *The Sopranos* (HBO); Abbe Smith, *Promoting Justice Through Interdisciplinary Teaching, Practice, and Scholarship the Difference in Criminal Defense and the Difference It Makes*, 11 WASH. U. J.L. & POL’Y 83, 140 n.68 (2003) (“Tony Soprano is the fictional head of both a mafia and suburban family in New Jersey in a popular HBO series”).

3. *Deadwood* (HBO); Alessandra Stanley, *Revisiting ‘Deadwood’, a Lawless Prelude to TV’s New Golden Age*, N.Y. TIMES (July 21, 2015), [http://www.nytimes.com/2015/07/22/arts/television/revisiting-deadwood-a-lawless-prelude-to-tvs-new-golden-age.html?\\_r=0](http://www.nytimes.com/2015/07/22/arts/television/revisiting-deadwood-a-lawless-prelude-to-tvs-new-golden-age.html?_r=0). (“But threaded through the spew of swear words would be sudden flights of near-Shakespearean eloquence. Comforting a slighted henchman, the town pimp and saloonkeeper, Al Swearengen (Ian McShane), was soothing” . . . “The characters spoke a new language, too, an incongruous mix of poetry and profanity that hasn’t been matched by any other show, not even the first season of ‘True Detective’”).

4. *The Wire* (HBO).

Harrelson playing Rustin Cohle and Marty Hart, respectively.<sup>5</sup> Unlike Tony, Al, Omar, and Stringer, however, Cohle and Hart were detectives in the Criminal Investigative Division of the Louisiana State Police and were supposed to be upholding the law as opposed to breaking it. For those unfamiliar with the first season of the show, it was an eight episode mini-series that was set in three different time periods, 1995, 2002, and 2012, and followed Cohle and Hart as they initially investigated the murder of a young prostitute named Dora Lange who was found in a Louisiana sugar cane field wearing deer antlers as a crown and surrounded by “devil nets.”<sup>6</sup> During the course of the investigation, McConaughey’s character, Rust Cohle, suspects that this murder is connected to dozens of other missing or dead women and children and a conspiracy exists to cover up those crimes involving prominent public and religious officials.<sup>7</sup> In the end, Rust and Marty got their men (although not all of their men),<sup>8</sup> but broke numerous state and federal laws along the way.

The purpose of this Article is to identify and discuss the numerous laws that Cohle broke during the course of the eight episodes – each episode is discussed separately in Sections II through IX. Here, an extremely important point needs to be made – this Article is not intended to pinpoint exactly how many laws that Cohle would likely be convicted of violating; rather, as is the case generally in the legal profession, many of the actual offenses and charges would be subject to prosecutorial discretion and therefore reasonable minds may disagree with the exact charge.<sup>9</sup> To the extent possible, this Article discusses the potential criminal charges that may be brought against Cohle but clearly understands that the actual number and degree may vary greatly, particularly in different jurisdictions and with different prosecutors. To that end, the Article will only tally and calculate potential state law charges but may make reference to some potential federal crimes where applicable. In an effort to keep track of the various charges and potential maximum sentence, the Article will keep the Cohle Crime Count (“CCC”) and Cohle Maximum Sentence Tally (“CMST”) after each potential charge in the footnotes and will assume a potential consecutive sentence. Further, since the show takes place in three distinct time periods, to avoid any confusion, the current statutes will be cited – even though in criminal proceedings the law at the time of the

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5. *True Detective* (2014), IMDB, [http://www.imdb.com/title/tt2356777/?ref\\_=nv\\_sr\\_1](http://www.imdb.com/title/tt2356777/?ref_=nv_sr_1) (last visited May 21, 2015).

6. *True Detective: The Long Bright Dark* (HBO television broadcast Jan. 12, 2014).

7. *True Detective: Haunted Houses* (HBO television broadcast Feb. 23, 2014).

8. *True Detective: Form and Void* (HBO television broadcast Mar. 9, 2014).

9. *United States v. Adams*, 788 F.3d 115, 116 (4th Cir. 2015) (Agee, J., concurring) (“The Government possesses ‘broad’ prosecutorial discretion.”) (citation omitted).

commission of the crime is applicable<sup>10</sup> and no statute of limitations will apply.

Additionally, in Sections II, A. and V, A., the Article will briefly address a few of the more critical legal issues raised in the show. For example, it will posit that Cohle's entire videotaped interview in 2012 – when he was the subject of an investigation similar to the Dora Lange murder from 1995 – would have been admissible in a subsequent proceeding against him, if any, regardless of the fact that he had been drinking alcohol purchased by and provided to him by the investigating detectives, Detective Maynard Gilbough and Detective Thomas Papania.<sup>11</sup> Moreover, if Cohle was actually charged for any crimes while conducting his rogue investigation in Episodes Four and Five, the Article discusses his potential defense of acting in an undercover capacity and concludes such a defense would likely not be successful.<sup>12</sup>

By the end, the Article will quantify, with some degree of specificity, Cohle's statement that, throughout the course of the show, he did in fact do "terrible things" with impunity.<sup>13</sup>

I. EPISODE ONE – THE LONG BRIGHT DARK – "I DON'T SLEEP . . . I JUST DREAM."<sup>14</sup>

The series opens in 2012 with Marty and Rust, who are now a private investigator and bartender, respectively, and no longer detectives, being separately interviewed by two other detectives (Gilbough and Papania) working in the same division of the Louisiana State Police that they once worked. Although it takes some time to come out, the reason the two detectives are interviewing Marty and Rust is because there has been a murder in Lake Charles, Louisiana that is similar to the Dora Lange case that Marty and Rust thought they solved in 1995 and that Cohle continued to obsess over in 2002. Thus, this episode focuses on the early relationship between the new partners in 1995 and the beginning stages of the Dora Lange murder investigation.

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10. State v. Barnett, 118 So. 3d 1156, 1166 n.7 (La. Ct. App. 2013) ("It is well settled that the law in effect at the time of the commission of the offense applies").

11. See *infra* Section II, A.

12. See *infra* Section V., A.

13. See note 1 and accompanying text. It is also important to note that this Article does not condone Cohle's conscious disregard for the rule of law. While the show was entertaining, a "true detective" would not (and should not) act in a manner inconsistent with the oath he or she has sworn to uphold.

14. Cohle, *True Detective: The Long Bright Dark* (HBO television broadcast Jan. 26, 2014).

The first glimpse of Rust's illegal behavior does not rise to the level of some of the other crimes he will commit later on, but is nevertheless in violation of the Louisiana criminal code. Specifically, after being asked to Marty's house for dinner, Cohle arrives at the Hart house completely drunk and barely able to stand. It is obvious he did not walk to Marty's house and therefore the first criminal act the audience sees Cohle undertake is driving while under the influence of alcohol.<sup>15</sup>

Later on in the episode, on his way to a truckers' bar to canvass it for information on Dora Lange or any other potential missing prostitutes, Cohle is seen drinking what appears to be cough syrup. Such behavior would only be a crime if he became under the influence, which he does not appear to be while driving at that moment, but may occur later on, particularly since he is seen having at least one beer while at the truck-stop bar.<sup>16</sup>

Another potential charge occurs when the other detectives from the Criminal Investigative Division return from a day of supposedly assisting Cohle and Hart with their investigation into the Dora Lange killing. While listening to the detectives recite the useless information they obtained, Cohle figures out that his co-workers gave a less than stellar effort in attempting to locate valuable information. In fact, he specifically asks whether they had canvassed the "bars." This prompts another officer, Detective Steve Geraci – who becomes victim to Cohle's more deviant behavior later in the series – to make an antagonizing comment, which causes Cohle to walk up to him and slap him directly in the face. Since this is clearly not consensual it would therefore be considered simple battery as defined by La. Rev. Stat. Ann. § 14:35,<sup>17</sup> or at the very least, simple assault

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15. LA. REV. STAT. ANN. § 14:98 (A)(1) (2015) (stating that "[t]he crime of operating a vehicle while intoxicated is the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when . . . (a) The operator is under the influence of alcoholic beverages. . . (D)(1) On a conviction of a first offense violation of the provisions of this Section, notwithstanding any other provision of law to the contrary, the offender shall be sentenced under the provisions of R.S. 14:98.1"); LA. REV. STAT. ANN. § 14:98.1 ("[O]n a conviction of a first offense violation of R.S. 14:98, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars, and shall be imprisoned for not less than ten days nor more than six months"). CCC = 1; CMST = 6 months.

16. LA. REV. STAT. ANN. § 14:98(d)(i) ("The operator is under the influence of a combination of alcohol and one or more drugs that are not controlled dangerous substances and that are legally obtainable with or without a prescription").

17. LA. REV. STAT. ANN. § 14:33 ("Battery is the intentional use of force or violence upon the person of another . . ."); LA. REV. STAT. ANN. § 14:35 ("Simple battery is a battery committed without the consent of the victim. . . . Whoever commits a simple battery shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both"); *see generally* State ex rel. C.J., 153 So. 3d 467 (La. Ct. App. 2014) (finding a juvenile delinquent [guilty] of simple battery for, among other things, slapping

pursuant to La. Rev. Stat. Ann. § 14:38.<sup>18</sup> The lack of a serious bodily injury on behalf of Geraci takes the charge out of any serious criminal penalty for either second degree or an aggravated battery.<sup>19</sup>

One of the more entertaining nuggets of the series is that Cohle drinks during his interview with Detectives Gilbough and Papania.<sup>20</sup> In fact, in this episode, Cohle states “[i]t’s Thursday past noon and Thursday is my day off and on my day off I start drinking at noon” and requests that they get him some beer while he speaks with them.<sup>21</sup> The detectives look at one another as if to say “you’ve got to be kidding me,” as they know buying alcohol for an interviewee is not protocol. However, they give in but do not get Cohle anything “snooty” as he requests and continue to question him. Thus, as the audience later learns, the detectives think Cohle may be involved in the new 2012 Lake Charles killing they are investigating. Therefore, they are using this interview with Cohle to determine whether to pursue him more aggressively. This revelation sets up the rest of the series by foreshadowing Cohle’s conspiratorial theories related to the missing/dead women and children and causes the episode to end in spectacular fashion – with Cohle becoming restless and demanding that the

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another juvenile in the back of the head). Arguably, this behavior may also be considered battery on a police officer, but since the incident was between two officers and was not actually during the course of an arrest or other official act, a simple battery or assault charge is probably more appropriate. *See* LA. REV. STAT. ANN. § 14:34.2 (A)(1) (“Battery of a police officer is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a police officer acting in the performance of his duty”). CCC = 2; CMST = 1 year (adding the six months for simple battery).

18. LA. REV. STAT. ANN. § 14:38 (“Simple assault is an assault committed without a dangerous weapon. . . . Whoever commits a simple assault shall be fined not more than two hundred dollars, or imprisoned for not more than ninety days, or both”); LA. REV. STAT. ANN. § 14:36 (“Assault is . . . the intentional placing of another in reasonable apprehension of receiving a battery”); *State ex rel. K.M.*, 146 So. 3d 865, 872 (La. Ct. App. 2014) (“In order to sustain the offense of ‘assault,’ the state must prove beyond a reasonable doubt: (1) the intent-to-scare mental element (general intent); (2) conduct by the accused of the sort to arouse a reasonable apprehension of bodily harm; and, (3) the resulting apprehension on the part of the victim”) (citation omitted).

19. *State v. Fuller*, 414 So. 2d 306, 310 (La. 1982) (“The statute clearly states that the intended harm is ‘serious bodily injury’ and defines this to involve ‘unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death’”).

20. *See generally* John Semley, *Let’s Talk About the Drinking on True Detective: The worst ad for Lone Star beer ever*, *ESQUIRE* (Mar. 7, 2014), <http://www.esquire.com/entertainment/tv/a27705/true-detective-drinking/>. (“From the start, investigators Gilbough and Papania buy a wearied Rust’s tentative trust with a sixer”).

21. *True Detective: The Long Bright Dark* (HBO television broadcast Jan. 12, 2014).



detectives stop wasting his time and “start asking the right *fucking* questions.”<sup>22</sup>

Assuming Cohle was later charged with a crime based on his interview, providing a potential suspect with alcohol would surely create some legal issues if the case were ever to move forward against Cohle and, thus, before moving on to Episode Two, the next section of this Article will explore those issues.

A. *Whether Cohle’s Interview Video Would Be Admissible*

During the course of Cohle’s discussion with the detectives, when he asks them for some beer, he also condescendingly asks: “[I]s this supposed to be admissible?”<sup>23</sup> Indeed, during writer Nic Pizzolatto’s interview in Episode Five’s “Inside the Episode” he confirms that, at least in part, Cohle’s intent was that his interview would not be admissible in court should the detectives decide to arrest him on the Lake Charles murder.<sup>24</sup> However, under Louisiana law, would the video of Cohle’s interrogation actually be inadmissible simply because he consumed alcohol during it?

Generally speaking,<sup>25</sup> under Louisiana law, “[f]or a confession or inculpatory statement to be admissible, the State must prove that it was made freely and voluntarily, and not made under the influence of fear, duress, intimidation, threats, menaces, inducements, or promises.”<sup>26</sup> Thus, the issue becomes whether Cohle’s statement was made “freely and voluntarily” because he was drinking alcohol.

In *State v. Bias*, 352 So. 2d 1011, 1012-13 (La. 1977), the court found that a defendant’s statement was admissible even though he had been drinking on the evening of his arrest because (1) he had not consumed any alcoholic liquids for several hours prior to his interrogation; (2) he demonstrated at the hearing on the statement’s admissibility through his remarkable recall of that evening’s events that he probably was not so inebriated that his will was overborne or that his statement was rendered

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22. *Id.*

23. *True Detective: The Long Bright Dark* (HBO television broadcast Jan. 12, 2014).

24. *True Detective: Season 1, Episode 5, Inside the Episode*, HBO, <http://www.hbo.com/true-detective/episodes/1/05-the-secret-fate-of-all-life/video/inside-the-episode.html#/> (last visited May 21, 2015).

25. For an extensive discussion on intoxication and admissibility of statements, see George L. Blum, Annotation, *Sufficiency of Showing that Voluntariness of Confession or Admission Was Affected by Alcohol or Other Drugs -- Self-Intoxication*, 96 A.L.R.5th 523 (2004).

26. *State v. Hebert*, 356 So. 2d 991, 994 (La. 1978) (citing LA. REV. STAT. ANN. § 15:451; *State v. Adams*, 347 So. 2d 195 (1977)).

involuntary; and (3) the police officers who testified for the prosecution stated that defendant was not noticeably intoxicated at the time of his arrest and that he appeared to be well oriented and to understand his rights. Conversely, in *State v. Rankin*, 357 So. 2d 803 (La. 1978), the court suppressed a custodial confession given to police, because the evidence showed that defendant was “intoxicated and disoriented, confused and irrational” when he was warned of and purportedly waived his *Miranda* rights prior to interrogation.<sup>27</sup> In making that determination, the court stated that the voluntary nature of a confession is vitiated “only when the intoxication is of such a degree as to negate defendant’s comprehension and to render him unconscious of the consequences of what he is saying.”<sup>28</sup> “While relevant, evidence of intoxication or the influence of drugs does not necessarily render a statement involuntary . . . . [T]he question becomes whether the defendant’s intoxication *rendered him incapable of making an independent, informed decision to confess.*”<sup>29</sup>

Admittedly, the majority of Louisiana cases discussing intoxication and the admissibility of statements given while a defendant may have been drunk do not include instances where the police officers *actually provided the alcohol during the interrogation or interview*. One case dealing with such a scenario, however, applied the same standard discussed above. In a case from 1906, *State v. Hogan*, the court rejected a defendant’s argument that his confession should be held inadmissible because an officer gave the defendant “one stiff drink of whiskey.”<sup>30</sup> In *Hogan*, the defendant killed the

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

28. *State v. Rankin*, 357 So.2d at 804; see also *State v. Vaccaro*, 411 So. 2d 415, 430 (La. 1982); *State v. Spencer*, 446 So. 2d 1197, 1200 (La. 1984) (holding a defendant was not sufficiently intoxicated so that he was rendered unconscious of the consequences of what he is saying when there was testimony by the two officers who took the statement that the defendant did not appear intoxicated, did not smell like alcohol and where the trial judge had opportunity to listen to a taped statement given by defendant and weighed the defendant’s responses and his demeanor under questioning); see also *State v. Hicks*, 607 So. 2d 937 (La. Ct. App. 1992); *State v. Alexander*, 40 So. 2d 232, 233-34 (La. 1949) (concluding that confessions were properly admitted and, after review of the applicable law, concluding “that the fact of the intoxicated condition of the accused at the time of making the confessions does not, unless such intoxication goes to the extent of mania, affect the admissibility of evidence of such confessions, if they were otherwise voluntary”).

29. *McKnight v. State*, No. 01-09-00852-CR, 2011 Tex. App. LEXIS 5557, at \*17 (Tex. Ct. App. July 21, 2011) (unpublished, citation omitted, and emphasis added) (citing *Jones v. State*, 944 S.W.2d 642, 651 (Tex. Crim. App. 1996)).

30. *State v. Hogan*, 42 So. 352, 353 (La. 1906) (quoting Wharton’s *Criminal Evidence* to state that “[t]he mere fact of intoxication, unless amounting to mania, does not exclude a confession made during its continuance, even though the intoxication was induced by a police officer, who sought in this way to induce the prisoner to confess” and ultimately concluding that “[i]n the case at bar the accused, who was recovering from a debauch, was

victim and, once he was arrested, confessed on two occasions.<sup>31</sup> Thereafter, the defendant argued that his confessions should be inadmissible but the court found that there was “no proof that he was intoxicated when he made either confession.”<sup>32</sup>

Similarly, even in the more recent cases of law-enforcement-supplied-alcohol during an interview or interrogation outside of Louisiana, the critical analysis still is whether the statement was voluntary.<sup>33</sup> In other words, contrary to Cohle’s quip as to whether his interview is “supposed to be admissible,” there is no *per se* rule that drinking during an interrogation deems the resulting statement to be inadmissible.<sup>34</sup> For example, in *State v. Thompson*,<sup>35</sup> the issue was “the admissibility of a written confession elicited from and signed by appellant while he was recovering from a bout of intoxication, and after he had received, at his request, a quantity of liquor from an interrogating officer.”<sup>36</sup> Additionally, in *State v. Painter*,<sup>37</sup> law enforcement interrogated the defendant the morning after he had been taken into custody. During that time, the defendant was given a drink of liquor, “not to induce a confession, but to settle [the defendant’s] nerves.”<sup>38</sup> Given those facts, the court found that the defendant had been understandingly advised of his rights and that his confession had not been otherwise

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furnished with one stiff drink of whisky, and there is no proof that he was intoxicated when he made either confession”).

31. *Id.*

32. *State v. Hogan*, 42 So. 352, 353 (La. 1906) (quoting Wharton’s Criminal Evidence to state that “[t]he mere fact of intoxication, unless amounting to mania, does not exclude a confession made during its continuance, even though the intoxication was induced by a police officer, who sought in this way to induce the prisoner to confess” and ultimately concluding that “[i]n the case at bar the accused, who was recovering from a debauch, was furnished with one stiff drink of whisky, and there is no proof that he was intoxicated when he made either confession”).

33. *See generally State v. Folkes*, 150 P.2d 17, 25 (Or. 1944) (holding that defendant’s statements were not involuntary because they were freely given and not made while under the influence of alcohol when the defendant asked officers to purchase whiskey for the defendant, which they did, but the evidence established that he confessed prior to consuming it).

34. *State v. Thompson*, 458 P.2d 395, 399 (Ariz. Ct. App. 1969) (“[W]e are unable to see that either reason or authority demands *ipso facto* rejection of a confession where officers have furnished a suspect a small dose of ‘hair of the dog’ at his request and in the absence of compulsion or promise, in an honest, if possibly mistaken, belief that the suspect’s wellbeing is served”).

35. *Id.*

36. *Id.* at 396.

37. 144 S.E.2d 6 (N.C. 1965).

38. *Id.* at 11.

improperly induced; accordingly the admissibility of the confession was affirmed as the “product of a free will and a conscious understanding[.]”<sup>39</sup>

In Episodes One through Six and throughout the interview with Cohle, there is no indicia of unreliability; he clearly knows what he is doing. This is evident by the fact that when the interview ends in Episode Six, Cohle specifically asserts that if the detectives want to look at something, then they should get a warrant and in fact drives away. If the detectives had any reason to believe that he was no longer capable of forming the requisite capacity to provide a voluntary statement due to his intoxication, he likely would not have been able to drive away.

One point that Cohle could argue in his favor would be in Episode Two when he states “[s]ometimes I drift when I drink a few.”<sup>40</sup> However, simply drifting would not be sufficient to establish a lack of voluntariness.<sup>41</sup> Likewise, Cohle’s momentary visions do not impair his reasoning and therefore do not rise to the level of rendering his statements inadmissible. Thus, contrary to Cohle’s thinking, it is likely that his entire videotaped interview would be admissible in a later court proceeding against him – if he were ever charged.

II. EPISODE TWO – SEEING THINGS – “[M]Y BAD BOYS . . . MAYBE WE GOT STARTED OFF ON THE WRONG FOOT THERE.”<sup>42</sup>

In this episode, back in 1995, Cohle and Hart continue to follow up on leads in the Dora Lange murder as they deal with the everyday struggles that face each of the two men, such as Cohle’s insomnia and Hart’s double life as a family and philandering man.<sup>43</sup> For example, as Cohle works the case, he purchases Quaaludes<sup>44</sup> to help him sleep from one of the prostitutes he met in the previous episode who also informs him that prostitutes, like Dora Lange, may have worked or lived on a “bunny ranch” in a remote area

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39. *Id.*

40. *True Detective: Seeing Things* (HBO television broadcast Jan. 19, 2014).

41. *See generally* State v. Rankin, 357 So. 2d 803, 804 (La. 1978).

42. Cohle, *True Detective: Seeing Things* (HBO television broadcast Jan. 19, 2014).

43. *Id.*

44. LA. REV. STAT. ANN. § 40:967 (C) (“It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance as classified in Schedule II unless such substance was obtained directly or pursuant to a valid prescription . . . . Any person who violates this Subsection as to any other controlled dangerous substance shall be imprisoned with or without hard labor for not more than five years and, in addition, may be sentenced to pay a fine of not more than five thousand dollars”); *contra* State v. Pomes, 376 So. 2d 133, 134 (La. 1979) (reversing the defendant’s conviction of the crime of possession of a controlled dangerous substance, Quaalude (methaqualone), in violation of R.S. 40:967 because evidence should have been excluded). CCC = 3; CMST = 6 years.

of southern Louisiana. Then, in an attempt to locate the ranch, Cohle and Hart stop at what appears to be a repair shop to ask some men for directions to the “bunny ranch” but are rudely ignored initially. Not satisfied, Cohle walks back out to the car with Hart, takes off his jacket, and tells Marty that he’ll be right back; once back inside, Cohle sarcastically apologizes for getting off on the “wrong foot” and then promptly picks up a tool box, bashes one person over the head with it (battery) and then chokes the other man while utilizing a wrist lock or arm bar to inflict some pain on the man in order to get the information he was trying to obtain. Given these acts, Cohle would likely be charged with two counts of battery<sup>45</sup> (one count of second degree<sup>46</sup> and one count of simple<sup>47</sup>). The second degree battery charge would apply to the man he clobbered over the head with the tool box appearing to have knocked him unconscious because second degree battery requires “serious bodily injury” and that includes unconsciousness.<sup>48</sup>

Using the directions Cohle coerced from the men at the repair shop, Cohle and Hart locate the ranch and meet an older woman and a young teenage girl<sup>49</sup> who provide them with Dora’s personal belongings. In those belongings is a diary that mentions, among other things, someone called the “Yellow King” and a place called “Carcosa.”<sup>50</sup> Importantly, she also had a flyer for a church, which Cohle and Hart visit only to find that it has been burnt down but did have paintings of individuals with deer antlers – just like those found on Dora Lange after she had been killed.

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45. CCC = 4,5; CMST = 8 years, 6 months.

46. LA. REV. STAT. ANN. § 14:34.1 (A) (“Second degree battery is a battery when the offender intentionally inflicts serious bodily injury[.] . . . (C) Whoever commits the crime of second degree battery shall be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than eight years, or both”).

47. See *supra* n.17 (defining simple battery and noting its maximum sentence of six months).

48. LA. REV. STAT. ANN. § 14:34.1(B)(3) (“‘Serious bodily injury’ means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death”).

49. This young girl, Beth, plays an important role in Marty’s family’s demise later in the series. See *infra* note 142 and accompanying text.

50. Although not stated in any episode, the “Yellow King” mentioned in the show is a nod to the book *The King in Yellow* by Robert W. Chambers, which is a set of short stories where a fictional play, also called “The King in Yellow,” drives people mad and the fictional king mentioned in the play rules over a city called “Carcosa.” David Barnett, *Who or What is the King in Yellow? Ask the True Detectives*, THE GUARDIAN (Feb. 26, 2014), <http://www.theguardian.com/books/2014/feb/26/king-in-yellow-true-detectives-hbo-weird-fiction> (last visited July 8, 2015); see also Michael Calia, *Writer Nic Pizzolatto on Thomas Ligotti and the Weird Secrets of ‘True Detective’*, WALL ST. J. (Feb. 2, 2014), <http://blogs.wsj.com/speakeasy/2014/02/02/writer-nic-pizzolatto-on-thomas-ligotti-and-the-weird-secrets-of-true-detective/>.

III. EPISODE THREE – THE LOCKED ROOM – “WORLD NEEDS BAD MEN.  
WE KEEP THE OTHER BAD MEN FROM THE DOOR.”<sup>51</sup>

In this slow episode for Cohle’s criminal activity, which does not see Cohle commit any potential serious crimes, the viewer gets a glimpse of Cohle’s religious views, which can be summarized by his comment that “religion dulls critical thinking” and his general disdain towards those at the religious service he and Hart attend during the course of their investigation.<sup>52</sup> Nonetheless, despite Cohle’s law abiding behavior in this episode, Hart certainly makes up for it by driving visibly intoxicated to see his mistress<sup>53</sup> and forcibly breaking and entering into her apartment.<sup>54</sup> Once inside, entry which he gains by breaking the chain on the door, Hart pushes his mistress, throws her date into a closet, and then proceeds to demonically question him about the extent of his sexual experience with her.<sup>55</sup>

As it relates to the investigation, putting his insomnia to good use, Cohle spends time going through old files of dead women and children to find a young girl whose death was under conditions suspicious to Cohle that, in his opinion, were incorrectly attributed to a natural disaster. While checking up on her background, Cohle and Hart find out she attended a Tuttle school and had previously dated a guy who happened to have been (1) arrested and convicted of manufacturing LSD and meth, which were both found in Dora Lange during her autopsy; and (2) shared a cell with Dora’s husband while incarcerated. Thus, at the end of the episode, while Cohle is questioning a man cutting grass at one of the Tuttle schools,<sup>56</sup> the detectives receive a call from dispatch and finally get a break in the case – the name of the potential suspect: Reggie Ledoux. In the concluding moments of the episode, Cohle pontificates on death and the victims’ feelings of acceptance at the final moments of their lives and the episode

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51. Cohle, *True Detective: The Locked Room* (HBO television broadcast Jan. 26, 2014).

52. Cohle, *True Detective: The Locked Room* (HBO television broadcast Jan. 26, 2014).

53 See LA. REV. STAT. ANN. § 14:98(A)(1) (stating that “[t]he crime of operating a vehicle while intoxicated is the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when . . . (a) The operator is under the influence of alcoholic beverages . . .”).

54. LA. REV. STAT. ANN. § 14:60 (“A. Aggravated burglary is the unauthorized entering of any inhabited dwelling . . . where a person is present, with the intent to commit a felony or any theft therein, under any of the following circumstances: (1) If the offender is armed with a dangerous weapon. . .”).

55. LA. REV. STAT. ANN. § 14:36 (“Assault is an attempt to commit a battery, or the intentional placing of another in reasonable apprehension of receiving a battery”).

56. This turns out to be Errol Childress. See *infra* note 172 and accompanying text.

culminates in the final scene of Ledoux walking through his property with a machete and gas mask like the “monster” he is meant to portray.<sup>57</sup> This scene sets up the next two episodes and may explain the length upon which Hart and Cohle are willing to go in order to get their man.

Thus, after three episodes, the CCC is a mere five (5) potential criminal charges and a potential maximum sentence of eight (8) years and six (6) months imprisonment. Those numbers, however, are going to change drastically as Hart and Cohle pursue their man in Episodes Four and Five.

#### IV. EPISODE FOUR – WHO GOES THERE – “YOU’RE LIKE THE MICHAEL JORDAN OF BEING A SON OF A BITCH.”<sup>58</sup>

This episode, with its fantastic name that writer Nic Pizzolatto says is for the old “guardsman” call,<sup>59</sup> is where Cohle’s criminal legacy moves to another level. After questioning Dora Lange’s ex-husband for a second time, the detectives again hear about the place called “Carcosa” where there is a “whole lot of killing” and get the name of a known associate of Ledoux. Using this information, Hart follows up with the associate and learns that Ledoux currently manufactures drugs exclusively for a biker gang out of east Texas called the Iron Crusaders. Once Hart calls Cohle to tell him that the Iron Crusaders may be involved, Cohle – knowing that things are about to get ugly because he is familiar with the gang from his days as an undercover operative in Texas using the nickname “Crash” – brings out an old large metal box that contains, among other things, hand grenades, guns, ammunition, and, interestingly, a bottle of Jameson Whiskey. Assuming Cohle does not have a license for the hand grenades, he is not authorized to have such explosives<sup>60</sup> and is therefore possessing them criminally.<sup>61</sup>

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57. “Like a lot of dreams, there’s a monster at the end of it.” Cohle, *True Detective: The Locked Room* (HBO television broadcast Jan. 26, 2014).

58. Hart, *True Detective: Who Goes There* (HBO television broadcast Feb. 9, 2014).

59. HBO, *True Detective; Season 1, Episode 4, Inside the Episode*, <http://www.hbo.com/true-detective/episodes/1/04-who-goes-there/video/inside-the-episode.html> (last visited May 14, 2015).

60. LA. REV. STAT. ANN. § 14:54.3. (A). (“It shall be unlawful for any person without proper license as required by R.S. 40:1472.1 *et seq.*, knowingly and intentionally to manufacture, possess, or have under his control any bomb”); LA. REV. STAT. ANN. §§ 40:1472.4.A., 40:1472.4.C. (“No person shall possess an explosive unless he is the holder of a valid license required by the provisions of this Part, and possesses such explosives for the purpose set forth by the license. . . . C. Whoever is charged and convicted of violating Subsection A of this Section shall be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both”); *United States v. Freed*, 401 U.S. 601, 609 (1971) (stating that “one would hardly be surprised to learn that possession of hand grenades is not an innocent act. They are highly dangerous offensive weapons...”); *State v.*

Having gathered valuable information from Ledoux's associate, Hart and Cohle need a plan and so a criminal conspiracy<sup>62</sup> begins to develop after Marty is forced to live with Cohle after his wife learns of his infidelity. To strategize, Rust and Marty find themselves at a place where criminal conspiracies should naturally begin – a bar.<sup>63</sup> The two discuss the plan and

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Williams, 438 So. 2d 1286, 1287 n.2 (La. Ct. App. 1983) (affirming the defendant's conviction for, among other things, possession of a bomb when he had a "hand grenade simulator," which "is an explosive device manufactured by the United States Army designed to simulate an actual grenade exploding").

61. CCC = 6; CMST = 13 years, 6 months.

62. LA. REV. STAT. ANN. § 14:26 (2015) provides:

A. Criminal conspiracy is the agreement . . . of two or more persons for the specific purpose of committing any crime; provided that an agreement . . . to commit a crime shall not amount to a criminal conspiracy unless, in addition to such agreement . . ., one or more of such parties does an act in furtherance of the object of the agreement or combination.

B. If the intended basic crime has been consummated, [they] may be tried for either the conspiracy or the completed offense, and a conviction for one shall not bar prosecution for the other.

C. Whoever is a party to a criminal conspiracy to commit any crime shall be fined or imprisoned, or both, in the same manner as for the offense contemplated by the conspirators; provided, however, whoever is a party to a criminal conspiracy to commit a crime punishable by death or life imprisonment shall be imprisoned at hard labor for not more than thirty years.

D. Whoever is a party to a criminal conspiracy to commit any other crime shall be fined or imprisoned, or both, in the same manner as for the offense contemplated by the conspirators; but such fine or imprisonment shall not exceed one-half of the largest fine, or one-half the longest term of imprisonment prescribed for such offense, or both.

63. In order to simplify the potential conspiracy charges, the Article will assume only one count of criminal conspiracy with Marty, i.e., conspiracy to commit aggravated kidnapping when Cohle took Ginger. *See infra* notes 70, 103 and accompanying text. Thus, since the sentence for aggravated kidnapping is life, LA. REV. STAT. ANN. § 14:44 ("Aggravated kidnapping is the doing of any of the following acts with the intent thereby to force the victim, or some other person, to give up anything of apparent present or prospective value . . . [t]he forcible seizing and carrying of any person from one place to another . . . . Whoever commits the crime of aggravated kidnapping shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence."), the maximum sentence for conspiracy to commit the same is thirty years. LA. REV. STAT. ANN. § 14:26(C); *see generally* State v. Lang, 128 So. 3d 330, 336 (La. Ct. App. 2013) (finding that the evidence was sufficient to sustain defendant's conviction for conspiracy to commit second degree murder because defendant and her boyfriend actively searched for the intended victim in order to shoot him, and after the murder, defendant left town, altered the appearance of her vehicle, and lied to the police about her whereabouts). CCC = 7; CMST = 43 years, 6 months.



how Cohle will have to take some “personal time” in order to infiltrate the biker gang far enough to allow him to set up a meeting with someone who might be able to take him to Ledoux. The first step in Cohle’s master plan is to get his hands on some quality cocaine. In order to do so, Cohle visits the Louisiana State Police’s evidence room and not only steals cocaine that was being stored for another criminal case, which possibly constitutes destruction of public records<sup>64</sup> and certainly would be malfeasance in office by a public employee<sup>65</sup> and theft,<sup>66</sup> but also snorts some to determine its quality. Thus, there is the theft and, given the quantity involved and his intent, also possession with the intent to distribute the cocaine.<sup>67</sup> As he leaves the evidence room, Cohle hits the nail on the head when he mumbles

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64. Interestingly, this would not likely qualify for tampering with evidence because Cohle does not possess the requisite intent. *See* LA. REV. STAT. ANN. § 14:134.2.(A.)(2)(a)-(b) (“It shall be unlawful and constitute malfeasance in office for a peace officer to tamper with evidence. . . . For purposes of this Section, “tampering with evidence” is the intentional alteration, movement, removal, or addition of any object or substance when the peace officer: Knows or has good reason to believe that such object or substance will be the subject of any investigation by state, local, or federal law enforcement officers, and Acts with the intent of distorting the results of such an investigation.”).

65. LA. REV. STAT. ANN. §§ 14:134.A.(1)-(2), 14:134.C.(1) (“Malfeasance in office is committed when any public officer or public employee shall: (1) Intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; or (2) Intentionally perform any such duty in an unlawful manner; . . . C. (1) Whoever commits the crime of malfeasance in office shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars, or both.”). CCC = 8; CMST = 48 years, 6 months.

66. LA. REV. STAT. ANN. § 14:67.A. (“Theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential.”). For the punishment, this Article will assume that the value is less than \$750 and therefore “B.(4) [w]hen the misappropriation or taking amounts to less than a value of seven hundred fifty dollars, the offender shall be imprisoned for not more than six months, or may be fined not more than one thousand dollars, or both.” *Id.* CCC = 9; CMST = 49 years

67. *State v. Eberhardt*, 145 So. 3d 377, 380 (La. 2014) (noting the defendant has been charged with “one count of possession with intent to distribute cocaine, a violation of LSA-R.S. 40:967(A)”; *see also* LA. REV. STAT. ANN. § 40:967 (“[I]t shall be unlawful for any person knowingly or intentionally: . . . possess with intent to . . . distribute, or dispense, a controlled dangerous substance or controlled substance analogue classified in Schedule II . . . B. any person who violates Subsection A with respect to . . . (4)(b) possession with intent to . . . distribute, or dispense cocaine or cocaine base . . . shall be sentenced to a term of imprisonment at hard labor for not less than two years nor more than thirty years . . . and may, in addition, be sentenced to pay a fine of not more than fifty thousand dollars.”); *see also* *State v. Smith*, 130 So. 3d 874, 880 (La. 2013) (Johnson, C.J. dissenting) (“Cocaine and its derivatives are listed in Schedule II.”) (citing LA. REV. STAT. ANN. § 40:964). CCC = 10; CMST = 79 years.

to himself that the State Police “[r]eally should have a better system than”<sup>68</sup> basically allowing anyone to walk into the room, steal drugs, money, or other evidence without any oversight.

A. *The Raid*<sup>69</sup>

After Cohle steals the cocaine, the next step in the conspiracy is to arrange a meeting with one of his former contacts – an Iron Crusader named Ginger. Cohle thinks Ginger will work with “Crash” and potentially allow Cohle to ascertain Ledoux’s location. Cohle and Hart agree that if Cohle is not able to get the information he needs from Ginger, they will “snatch” him up and Cohle tells Marty to keep an enormous 1995 cell phone handy and “charged” while the two then travel from Louisiana to right over the border for the meeting at a biker bar near Beaumont, Texas.<sup>70</sup> Once inside the back room of the biker bar, Cohle lies to Ginger about why he has not been around lately (because he was involved in a shootout and thought the authorities were after him), why he wants to meet with him (to trade meth for cocaine), and, in order to gain some trust with Ginger, gives the cocaine to Ginger as a goodwill gesture.<sup>71</sup> After Ginger snorts the cocaine, Cohle learns Ginger actually needs “Crash” for an immediate job and if “Crash” helps Ginger, Ginger will get him in contact with Ledoux. Eventually satisfied with the arrangement, Cohle then enters into another conspiracy<sup>72</sup>

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68. *True Detective: Who Goes There* (HBO television broadcast Feb. 9, 2014).

69. Chris Ryan, *The Raid: The six-minute “True Detective” tracking shot, and the night TV changed*, GRANTLAND (Dec. 23, 2014), <http://grantland.com/features/true-detective-tracking-shot-fukanaga-what-we-saw>.

70. See generally Christopher Lirette, *Something True about Louisiana: HBO’s True Detective and the Petrochemical America Aesthetic*, SOUTHERN SPACES (Aug. 13, 2014), [http://www.southernspaces.org/2014/something-true-about-louisiana-hbos-true-detective-and-petrochemical-america-aesthetic#footnote12\\_s4sm96f](http://www.southernspaces.org/2014/something-true-about-louisiana-hbos-true-detective-and-petrochemical-america-aesthetic#footnote12_s4sm96f).

71. Assuming the weight of the cocaine was between one and four grams, the following would be applicable: TEX. HEALTH & SAFETY CODE ANN. § 481.112(a), (c) (“ . . . [A] person commits an offense if the person knowingly . . . delivers, or possesses with intent to deliver a controlled substance listed in Penalty Group 1. . . . (c) An offense under Subsection (a) is a felony of the second degree if the amount of the controlled substance . . . is, by aggregate weight . . . one gram or more but less than four grams.”); TEX. HEALTH & SAFETY CODE ANN. § 481.102(3)(D) (“Penalty Group 1 consists of: . . . [c]ocaine[.]”); TEX. PENAL CODE ANN. § 12.33 (“(a) An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 20 years or less than 2 years.”). Since the possession with intent to distribute cocaine was already tallied, this will not be counted.

72. TEX. PENAL CODE ANN. § 15.02(a), (“A person commits criminal conspiracy if, with intent that a felony be committed: (1) he agrees with one or more persons that they . . . engage in conduct that would constitute the offense; and (2) he or one or more of them

– this time with Ginger and to commit armed robbery.<sup>73</sup> Cohle travels to Ginger’s place with two other bikers where he continues to do drugs and finds out he has also become involved in an aggravated kidnapping<sup>74</sup> and false imprisonment with a dangerous weapon<sup>75</sup> of a presumed drug dealer named Tiger Thomas. Importantly, once Cohle is part of the conspiracy, any crime the other individuals involved in the conspiracy commit are attributable to Cohle,<sup>76</sup> which, in addition to the aggravated kidnapping, at this point also includes impersonating an officer.<sup>77</sup>

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performs an overt act in pursuance of the agreement. . . . (d) An offense under this section is one category lower than the most serious felony that is the object of the conspiracy”).

73. TEX. PENAL CODE ANN. § 29.03 (“(a) A person commits [aggravated robbery] if he commits robbery as defined in Section 29.02, and he: . . . (2) uses or exhibits a deadly weapon; . . . (b) An offense under this section is a felony of the first degree.”); TEX. PENAL CODE ANN. § 12.32 (“(a) An individual adjudged guilty of a felony of the first degree shall be punished by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years.”); *Woodard v. State*, 322 S.W.3d 648, 652 n.6 (Tex. Crim. App. 2010) (“We note, however, that conspiracy to commit aggravated robbery is a second-degree felony”); TEX. PENAL CODE ANN. § 12.33 (“(a) An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 20 years or less than 2 years”). CCC = 11; CMST = 99 years.

74. TEX. PENAL CODE § 20.04 (“(a) A person commits an offense if he intentionally . . . abducts another person with the intent to: . . . (2) use him as a shield or hostage; (3) facilitate the commission of a felony . . . (b) A person commits an offense if the person intentionally or knowingly abducts another person and uses or exhibits a deadly weapon during the commission of the offense. (c) . . . an offense under this section is a felony of the first degree”); TEX. PENAL CODE § 20.01(2) (defining abduct as “to restrain a person with intent to prevent his liberation by: (A) secreting or holding him in a place where he is not likely to be found; or (B) using or threatening to use deadly force”); TEX. PENAL CODE ANN. § 12.32 (“(a) An individual adjudged guilty of a felony of the first degree shall be punished by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years”). CCC = 12; CMST = 198 years.

75. TEX. PENAL CODE § 20.02 (“(a) A person commits an offense if he intentionally or knowingly restrains another person. . . . (c) An offense under this section is a Class A misdemeanor, except that the offense is: . . . (2) a felony of the third degree if: (A) the actor recklessly exposes the victim to a substantial risk of serious bodily injury”); TEX. PENAL CODE § 12.34(a) (noting that the term of imprisonment for a third degree felony is imprisonment for not more than 10 years). CCC = 13; CMST = 208 years.

76. TEX. PENAL CODE ANN. § 7.02(B) (“If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy”). Typically, there can be no criminal conspiracy with an undercover officer. *See generally State v. Kihnel*, 488 So. 2d 1238, 1241 (La. Ct. App. 1986) (concluding “that in Louisiana there can be no conspiracy when the only supposed co-conspirators are a state informer and an undercover police officer who both only pretend to conspire”). However, since Cohle is acting without

The two other bikers, Ginger, Cohle, and Tiger Thomas then drive to a different section of Beaumont where the conspirators plan to rob a drug “stash” house. Once let out of the vehicle, Cohle is assigned with taking down the lookout, which he does by assaulting the lookout with a firearm,<sup>78</sup> and then forcibly enters the stash house (aggravated burglary)<sup>79</sup> and attempts armed robbery with a firearm.<sup>80</sup> During the course of the attempted armed robbery, each individual in the house is assaulted with a deadly

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authorization and did go through with the acts that were the subjects of the conspiracy, that argument would likely not apply.

77. TEX. PENAL CODE ANN. § 37.11 (“(a) A person commits an offense if he: (1) impersonates a public servant with intent to induce another to submit to his pretended official authority or to rely on his pretended official acts . . . . (b) An offense under this section is a felony of the third degree”). TEX. PENAL CODE ANN. § 12.34(a) (“An individual adjudged guilty of a felony of the third degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 10 years or less than 2 years”). CCC = 14; CMST = 218 years.

78. TEX. PENAL CODE ANN. § 22.02 (“(a) A person commits an offense if the person commits assault as defined in § 22.01 and the person: . . . (2) uses or exhibits a deadly weapon during the commission of the assault. (b) An offense under this section is a felony of the second degree . . . .”); TEX. PENAL CODE ANN. § 12.33 (“(a) An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 20 years or less than 2 years”). CCC = 15; CMST = 238 years.

79. TEX. PENAL CODE ANN. § 30.02 (“(a) A person commits an offense if, without the effective consent of the owner, the person: (1) enters a habitation, or a building (or any portion of a building) not then open to the public, with intent to commit a felony, theft, or an assault . . . . (d) An offense under this section is a felony of the first degree if: (1) the premises are a habitation; and (2) any party to the offense entered the habitation with intent to commit a felony other than felony theft or committed or attempted to commit a felony other than felony theft”). CCC = 16; CMST = 337 years. If Cohle were still in Louisiana, there is a specific statute that is applicable to home invasions with increased penalties where, as in the show, there is a child in the home. *See* LA. REV. STAT. ANN. § 14:62.8 (2014).

80. TEX. PENAL CODE ANN. § 15.01 (“(a) A person commits an offense if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended. (b) If a person attempts an offense that may be aggravated, his conduct constitutes an attempt to commit the aggravated offense if an element that aggravates the offense accompanies the attempt. . . . (d) An offense under this section is one category lower than the offense attempted . . . .”); TEX. PENAL CODE ANN. § 29.03 (“(a) A person commits an offense if he commits robbery as defined in Section 29.02, and he: . . . (2) uses or exhibits a deadly weapon; . . . (b) An offense under this section is a felony of the first degree”). Since the attempt statute provides that an offense under that section will be one category lower than the offense attempted and since aggravated robbery is a first degree offense, TEX. PENAL CODE ANN. § 12.33, is the applicable penalty statute. *See id.* (“(a) An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 20 years or less than 2 years”). CCC = 17; CMST = 357 years.

weapon – at least two counts.<sup>81</sup> Unfortunately, the drug induced bikers do not exercise any restraint during the raid and a member of Ginger’s crew shoots a hostage at point blank range and then, as things really begin to get out of control, during an ensuing scuffle with Cohle, another crew member shoots Tiger Thomas.<sup>82</sup> In the aftermath, while Cohle escapes with Ginger (discussed in more detail below), the other two co-conspirators are also shot. Thus, assuming all four individuals are killed, an intriguing issue becomes the extent that these four killings are attributable to Cohle.<sup>83</sup> Again, unfortunately for Cohle, under Texas’s modified proximate cause application, which is the minority rule<sup>84</sup> of the felony-murder doctrine

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81. See generally *State v. McCarroll*, 337 So. 2d 475 (La. 1976) (finding that “that the legislature’s aim was to protect each citizen from the defined criminal conduct” and therefore concluding “the legislature intended to create multiple offenses from a single act of aggravated assault affecting more than one person”); TEX. PENAL CODE ANN. § 22.02 (stating that assault with a deadly weapon is a felony in the second degree and therefore a twenty-year maximum sentence). CCC = 18, 19; CMST = 397 years.

82. See *infra* note 76 and accompanying text.

83. See TEX. PENAL CODE ANN. § 7.01(a) (“A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both.”); TEX. PENAL CODE § 7.02 (“(a) A person is criminally responsible for an offense committed by the conduct of another if: (1) acting with the kind of culpability required for the offense, he causes or aids an innocent or nonresponsible person to engage in conduct prohibited by the definition of the offense; (2) acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense; . . . (b) If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy”).

84. *Miers v. State*, 251 S.W.2d 404, 408 (Tex. Crim. App. 1952); Kara M. Houck, Note: *People v. Dekens: The Expansion of the Felony-Murder Doctrine in Illinois*, 30 LOY. U. CHI. L.J. 357, 367 n.81 (1999)(citing, among other cases from other jurisdictions, *Miers*, 251 S.W.2d at 408 for the proposition that “only a minority has applied the proximate cause theory of liability”); see also *Davis v. Fox*, 735 S.E.2d 259, 262 (W. Va. 2012)(noting and following the majority position is those jurisdictions that “refuse to convict a perpetrator of felony murder when a co-felon is killed by the victim of the initial felony” and citing cases in California, Maryland, Nevada, New Jersey, New Mexico, North Carolina, Pennsylvania, Tennessee, and Virginia but not Texas and further noting that Alaska, Colorado, Connecticut, New York, Oregon, Utah, and Washington “have amended their statutes to limit the offense of felony murder to the killing of an individual who is not a participant in the underlying felony”); see also Martin J. McMahon, Annotation, *Application of the felony-murder doctrine where person killed was co-felon*, 89 A.L.R. 4th 683 (1991, 2013)(citing cases from other jurisdictions but not including any cases from Texas).

codified in Texas's murder statutes,<sup>85</sup> all of those murders are likely attributable to him in one way or another.

*B. Cohle's Culpability for the Four Individuals Killed During the Raid*

During the raid, two victims of the robbery and two co-conspirators are killed. Under Texas law and the felony murder doctrine codified in Chapter 19 of the Texas Penal Code, a person commits "murder" if the individual "commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, . . . he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual."<sup>86</sup> Similarly, a person commits "capital murder," "if the person commits murder as defined under Section 19.02(b)(1) [intentionally or knowingly causes the death of an individual] and: . . . the person intentionally commits the murder in the course of committing or attempting to commit . . . robbery[.]"<sup>87</sup> In Texas, "[f]elony murder differs from capital murder in that capital murder requires the intent to kill, whereas felony murder requires only an intent to commit the underlying offense and a death caused by the commission of an act clearly dangerous to human life."<sup>88</sup> Importantly, also in Texas, "courts have applied the law of parties to capital cases."<sup>89</sup> This "allows the State to convict a defendant for crimes committed by a co-conspirator even when the defendant did not intend for the actual offense(s) to occur."<sup>90</sup> From a constitutional and statutory standpoint, however, (1) under the Eighth Amendment,<sup>91</sup> an individual may not be sentenced to death for a capital crime unless there was major participation in the underlying felony and

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85. TEX. PENAL CODE ANN. § 19.02(b)(3), (c) ("A person commits [murder] if he: . . . commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual. . . . [A]n offense under this section is a felony of the first degree.").

86. TEX. PENAL CODE ANN. § 19.02(b)(3). "[A]n offense under this section is a felony of the first degree." *Id.* at § 19.02(c).

87. TEX. PENAL CODE ANN. § 19.03(a)(2). "An offense under this section is a capital felony." *Id.* at § 19.03(b).

88. *Janice v. State*, No. 11-07-00105-CR, 2009 Tex. App. LEXIS 606, at \*12-13 (Tex. Ct. App. Jan. 30, 2009)(unpublished).

89. Omar Randi Ebeid, Comment: *Death by Association: Conspiracy Liability and Capital Punishment in Texas*, 45 HOUS. L. REV. 1831, 1852 (2009).

90. *Id.* at 1833.

91. U.S. CONST. amend. VIII ("Excessive bail shall not be required, nor . . . cruel and unusual punishments inflicted").

reckless indifference to human life;<sup>92</sup> and (2) under Texas law, the jury must find, among other things, that “the defendant actually caused the death of the deceased or did not actually cause the death of the deceased but intended to kill the deceased or another or *anticipated that a human life would be taken.*”<sup>93</sup>

Applying the aforementioned standard to the two victims of the robbery, Cohle could arguably be charged with capital murder under Texas Penal Code § 19.03(a)(2) because (1) those two deaths occurred during the course of an armed robbery, which appears to have only taken place because Cohle agreed to participate; (2) the two individuals were killed intentionally by co-conspirators; and (3) Cohle’s behavior during the armed robbery showed a conscious disregard for human life, particularly given the fact that he heard the details of the plan beforehand, knew it was a bad idea, and went ahead with it anyway. Although not entirely analogous, under Texas law, at least one individual has been found guilty of capital murder where, during the course of a robbery, his co-conspirator killed a victim.<sup>94</sup> Regardless, at a minimum, Cohle could certainly be charged under the “murder” statute through the law of parties.<sup>95</sup>

With respect to the two co-conspirators, however, Cohle would likely only be responsible under the murder statute, if at all.<sup>96</sup> Unlike many other states, neither Texas’s statutes nor its cases specifically prohibit an individual from being found responsible for a co-conspirator’s death.<sup>97</sup> Had Cohle still been in Louisiana, its statute would have prevented the state

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92. Ebeid *supra* n.89; Foster v. Quarterman, 466 F.3d 359, 369 (5th Cir. Tex. 2006). Compare *Enmund v. Fla.*, 458 U.S. 782, 791 (U.S. 1982) (holding that the death penalty could not be imposed on a getaway driver who neither committed murder nor intended anyone to be killed and did not even witness the murder), with *Tison v. Ariz.*, 481 U.S. 137, 155 (U.S. 1987) (finding “major participation in the felony committed, combined with reckless indifference to human life, is sufficient to satisfy the *Enmund* culpability requirement”).

93. TEX. CODE CRIM. PROC. art. 37.071 (emphasis added); Ebeid *supra* n.89.

94. See, e.g., *Janice v. State*, No. 11-07-00105-CR, 2009 Tex. App. LEXIS 606 at \*8; *Bergara v. State*, 2009 Tex. App. LEXIS 6357 (Tex. Ct. App. Aug. 13, 2009)(unpublished) (affirming defendant’s conviction for capital murder even though she did not kill the victim and finding that the jury was free to draw the reasonable inference that defendant knew her co-conspirators were armed the night they robbed the victim; therefore the evidence was legally and factually sufficient that she should have reasonably anticipated the murder).

95. *Lee v. State*, No. 01-07-00992-CR2009 Tex. App. LEXIS 3879, at \*6-7 (Tex. Ct. App. June 4, 2009)(unpublished) (“Under the law of parties, a defendant may be convicted of the offense of felony murder, even when the defendant does not intend to commit murder, if the murder is committed in furtherance of the unlawful purpose and should have been anticipated as a result of the carrying out of the conspiracy”).

96. TEX. PENAL CODE ANN. § 19.02(b)(3).

97. See generally *supra* note 84.

from charging him for his two co-conspirators deaths under a felony murder theory.<sup>98</sup> In Texas though, if Cohle's behavior meets the statutory language as it relates to the deaths of his co-conspirators, then he could be charged with their murders.<sup>99</sup> Using the proximate cause theory discussed above and while it may be a stretch, his reckless behavior likely does meet the requisite standard.<sup>100</sup> Moreover, at least one Texas court has held that where there is evidence sufficient to prove that an individual initiated reckless actions, such as a shoot-out in a police station, the individual acts knowingly and his malicious conduct is sufficient to hold him responsible for a death even though it does not occur at the hands of the individual or his co-felons.<sup>101</sup>

For these reasons, given Cohle's conscious disregard for human life during the raid, it is possible he could be charged with four counts of murder, two of which could be characterized as capital murder.<sup>102</sup> Adding these murders to Cohle's totals bring him to twenty-three (23) potential charges and a maximum sentence of imprisonment of 397 years, plus two potential life sentences and two potential death sentences.

### C. *Additional Crimes During the Raid*

As briefly mentioned above, given the dire situation, Cohle decides to do what he says he should have done in the first place, i.e., forcibly kidnap Ginger with a firearm.<sup>103</sup> While kidnapping him, Cohle commits aggravated assault by taking Ginger at gunpoint,<sup>104</sup> and then, while fleeing

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98. See *State v. Myers*, 760 So. 2d 310 (La. 2000) (stating that "because the statute defines felony manslaughter to include only those killings committed by one acting in furtherance of a felony, it precludes criminal liability for deaths that are not at the hands of a defendant or his co-felons" and further holding that the defendant was "not criminally liable for the lethal act of a third party committed in an effort to resist his felony" that resulted in the death of his co-felon).

99. See *supra* note 86.

100. See *Miers v. State*, 251 S.W.2d 404, 408 (Tex. Crim. App. 1952).

101. *Dowden v. State*, 758 S.W.2d 264, 273 (Tex. Crim. App. 1988) ("By acting intentionally, appellant showed that he was aware of the nature of his conduct and that initiating a shoot-out in the police station would result in the death of one of the officers on duty. The evidence is also sufficient to prove that appellant acted knowingly and therefore his malicious conduct was sufficient to hold him criminally responsible for [the] resulting death").

102. CCC = 20-23; CMST = 397 years, plus two potential life and two potential death sentences ("2 life, 2 death").

103. CCC = 24; CMST = 496 years, plus 2 life, 2 death. See *supra* note 63 (defining aggravated kidnapping and maximum penalty).

104. TEX. PENAL CODE ANN. § 22.02 (a) "A person commits [aggravated assault] if the person commits assault as defined in § 22.01 and the person: . . . (2) uses or exhibits a



the scene of the quasi-riot, Cohle forcibly enters a neighbor's house by pushing Ginger through the door and, assuming the door is broken, Cohle has recklessly damaged the property of another.<sup>105</sup> Likewise, by entering the house without consent he has trespassed and then commits several other counts of criminal trespass by running across others' property to meet Hart whom he called on the enormous cell phone from the neighbor's house.<sup>106</sup> While moving to the rendezvous location, two locals attack Cohle and Cohle's use of force against them could initially be considered self-defense, but he then proceeds to beat them down by pistol-whipping them while they are on the ground and thereby committing two more counts of aggravated assault.<sup>107</sup>

A few additional creative charges or other violations of law that may be attributable to Cohle could include participating in a riot,<sup>108</sup> deadly conduct,<sup>109</sup> and, because of his status as a police officer and travel across

deadly weapon during the commission of the assault. (b) An offense under this section is a felony of the second degree . . ."); TEX. PENAL CODE ANN. § 12.33 ((a) "An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 20 years or less than 2 years"). CCC = 25; CMST = 516 years, plus 2 life, 2 death.

105. TEX. PENAL CODE ANN. § 28.04 ((a) "A person commits [reckless damage or destruction] if, without the effective consent of the owner, he recklessly damages or destroys property of the owner. (b) An offense under this section is a Class C misdemeanor"). Although the CCC goes to 26, the CMST remains at 516 years, plus 2 life, 2 death because the maximum penalty for a Class C misdemeanor is a \$500 fine. TEX. PENAL CODE ANN. § 12.23.

106. TEX. PENAL CODE ANN. § 30.05 ((a) "A person commits [criminal trespass] if the person enters or remains on or in property of another . . . without effective consent and the person: (1) had notice that the entry was forbidden; . . . (d) An offense under this section is: (1) a Class B misdemeanor . . ."); TEX. PENAL CODE ANN. § 12.22 (noting the maximum imprisonment for a Class B misdemeanor is 180 days). CCC = 27; CMST = 516 years, 180 days, plus 2 life, 2 death.

107. TEX. PENAL CODE ANN. § 22.02 ((a) "A person commits [aggravated assault] if the person commits assault as defined in § 22.01 and the person: . . . (2) uses or exhibits a deadly weapon during the commission of the assault. (b) An offense under this section is a felony of the second degree . . ."); TEX. PENAL CODE ANN. § 12.33 ((a) "An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 20 years or less than 2 years"). CCC = 28, 29; CMST = 556 years, 180 days, plus 2 life, 2 death.

108. TEX. PENAL CODE ANN. § 42.02 ((a) "For the purpose of this section, 'riot' means the assemblage of seven or more persons resulting in conduct which: (1) creates an immediate danger of damage to property or injury to persons; . . . (b) A person commits an offense if he knowingly participates in a riot. . . an offense under this section is a Class B misdemeanor"). CCC = 30; CMST = 557 years (rounding up the five days), plus 2 life, 2 death.

109. TEX. PENAL CODE ANN. § 22.05 ((a) "A person commits [deadly conduct] if he recklessly engages in conduct that places another in imminent danger of serious bodily injury. . . . (c) Recklessness and danger are presumed if the actor knowingly pointed a

state lines, potential violations of federal criminal and civil rights statutes.<sup>110</sup>

D. *Cohle's Potential Defenses While Undercover as "Crash"*

Normally, undercover police officers are given immunity for crimes they commit while acting in the scope of their undercover role.<sup>111</sup> In fact, they are typically given a significant amount of discretionary power to determine how best to conduct their investigations.<sup>112</sup> That level of discretion is not, however, limitless. In order to be free from likely prosecution for actions while undercover pursuant to the "public authority" or "law enforcement authority" defense, for example, certain elements must be met.<sup>113</sup> Specifically, "[t]he police conduct must be authorized, . . . the

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firearm at or in the direction of another whether or not the actor believed the firearm to be loaded. . . . An offense under Subsection (b) is a felony of the third degree"); TEX. PENAL CODE ANN. § 12.34. CCC = 31; CMST = 567 years, plus 2 life, 2 death.

110. See, e.g., 21 U.S.C. § 841(a)(1) (distribution of cocaine); 42 U.S.C. § 1983 ("Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. . . ."). Arguably, however, Cohle was not unauthorized during this undercover operation and he did not exercise any authority against anyone except Ginger, thus not acting under color law. *West v. Atkins*, 487 U.S. 42, 49 (U.S. 1988) ("The traditional definition of acting under color of state law requires that the defendant in a § 1983 action have exercised power 'possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.'"); *Strange v. Porath*, No. 96-2072, 1996 U.S. App. LEXIS 33515, \*9 (10th Cir. Dec. 24, 1996) ("Standing alone, the use of a business card, without more, is not sufficient to place an off-duty officer's conduct under color of law.").

111. For a detailed discussion of the issues related to undercover officers' activities, see Elizabeth E. Joh, Article: *Breaking the Law to Enforce It: Undercover Police Participation in Crime*, 62 STAN. L. REV. 155, 157 (Dec. 2009) (stating that unless criminal actions by undercover operatives are "committed by 'rogue cops' not authorized to participate in illegal activity, these activities aren't considered crimes" and are actually "considered a justifiable and sometimes necessary aspect of undercover policing").

112. TEX. PENAL CODE ANN. § 43.06 (providing that a party to an offense under this subchapter may not be prosecuted for any offense about which he is required to furnish evidence or testify); *Suter v. United States*, 441 F.3d 306, 312 (4th Cir. 2006) (noting that the Attorney General's Guidelines on FBI Undercover Operations grant the FBI broad discretion in conducting undercover operations in that they generally authorize the FBI to conduct undercover operations and engage in activity that is proscribed by federal, state, or local law as a felony or that is otherwise a serious crime).

113. Joh *supra* n.111 at 169-70.

means used by the police must be necessary,”<sup>114</sup> and in some jurisdictions, there must also be “proportionality limitation.”<sup>115</sup> In Cohle’s case, although his intentions were not to profit personally but to solve a murder, his actions while undercover were neither authorized nor proportionally limited.<sup>116</sup> To that end, Cohle intentionally sought leave so that there would be no oversight of his activities and, at no point in time, did he consider alternatives to the drastic measures of armed robbery and kidnapping in order to get his information. As a result, should he be charged, it is unlikely he would be entitled to any defenses available to undercover officers for his role in the raid.<sup>117</sup>

V. EPISODE FIVE – THE SECRET FATE OF ALL LIFE – “*GOOD TO SEE YOU COMMIT TO SOMETHING.*”<sup>118</sup>

After the raid in the final minutes of Episode Four, a rugged and beat up Ginger and a drug-induced-hung-over-exhausted-looking Cohle have arranged a meeting at a bar with the cousin of the suspect Reggie Ledoux. Upon entering the bar, the cousin, Dewall Ledoux, listens to a fabricated drug proposition from Cohle – “cocaine for meth.”<sup>119</sup> Although the offer is rejected, the meeting is a cover to allow Hart to follow Dewall with the hope that he will lead them to their suspect. Cohle, with Ginger restrained in the back of his truck, tails at a distance and, at this point, has likely crossed over the Texas-Louisiana line while committing kidnapping, which would qualify as another federal offense.<sup>120</sup> Once Dewall stops and

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114. *Id.* (footnotes omitted) (citing 2 Paul H. Robinson, CRIMINAL LAW DEFENSES § 142(a)(1984)).

115. *Id.* at 170.

116. *Id.*

117. *See generally id.*; *see also* People v. Roberts, 601 P.2d 654, 656 (Colo. Ct. App. 1979) (reversing the defendant’s conviction but rejecting his argument that he was entitled to an instruction on the execution of a public duty because, in part, he “presented no evidence that he had any authorization to engage in [the] undercover activities” at issue).

118. Cohle, *True Detective: The Secret Fate of All Life* (HBO television broadcast Feb. 16, 2014).

119. *Id.*

120. 18 U.S.C. § 1201(a) (“Whoever unlawfully . . . kidnaps . . . any person . . . when (1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary . . . shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment. . . (c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life”); United States v. Welch, 10 F.3d 573, 574 (8th Cir. S.D. 1993) (“Whoever

abandons his truck to hike toward the remote drug lab, Cohle, now by himself, meets up with Hart and tells him that Ginger is “wrapped up in a ditch” but does not elaborate. Giving Cohle the benefit of the doubt, it will be assumed that Ginger was simply left to fend for himself as opposed to anything more sinister. Nonetheless, leaving someone tied up in a ditch on the side of a road in a remote area could qualify as negligent injuring if Cohle’s act of leaving him caused any further injury.<sup>121</sup>

Back in 2012, Cohle begins to explain how he and Hart tracked down the Ledoux and, for a second time in the series, actively lies to the detectives about what is about to transpire onscreen.<sup>122</sup> This would not necessarily be a crime; however, the audience also sees a glimpse of the testimony Cohle gives to a review board that is not consistent with the actual events unfolding in 1995. Thus, since the board hearing was likely conducted under oath, the lies meant to cover up what actually happened would be considered perjury.<sup>123</sup>

Although Cohle says that he and Hart are immediately ambushed by rapid gun fire, the actual version of the events are that having located

unlawfully . . . kidnaps . . . any person . . . when (1) the person is willfully transported in interstate or foreign commerce’ violates 18 U.S.C. § 1201(a)”.

121. LA. REV. STAT. ANN. § 14:39 ((A) “Negligent injuring is . . . the following: (1) The inflicting of any injury upon the person of another by criminal negligence. . . (C) Whoever commits the crime of negligent injuring shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both”); LA. REV. STAT. ANN. § 14:12 (“Criminal negligence exists when, although neither specific nor general criminal intent is present, there is such disregard of the interest of others that the offender’s conduct amounts to a gross deviation below the standard of care expected to be maintained by a reasonably careful man under like circumstances”). CCC = 32; CMST = 567 years, 6 months, plus 2 life, 2 death.

122. As mentioned earlier, Louisiana does not have a counterpart to the federal lying to investigators. 18 U.S.C. § 1001 (“[W]hoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully-- . . . (2) makes any materially false, fictitious, or fraudulent statement or representation . . . shall be fined under this title, imprisoned not more than 5 years[.]”).

123. LA. REV. STAT. ANN. § 14:123 ((A) “Perjury is the intentional making of a false written or oral statement in or for use in a judicial proceeding, any proceeding before a board or official, wherein such board or official is authorized to take testimony, or before any committee or subcommittee of either house or any joint committee or subcommittee of both houses of the legislature. In order to constitute perjury the false statement must be made under sanction of an oath or an equivalent affirmation and must relate to matter material to the issue or question in controversy. . . (C) Whoever commits the crime of perjury shall be punished as follows: . . . (4) When committed in any . . . administrative proceeding, legislative hearing or proceeding, or in any other legal proceeding, by a fine of not more than ten thousand dollars or imprisonment at hard labor for not more than five years, or both”). CCC = 33; CMST = 572 years, 6 months, plus 2 life, 2 death.

Ledoux's hidden drug lab, Marty and Rust trespass onto the property<sup>124</sup> and conduct an illegal search without a warrant.<sup>125</sup> Then, during the course of their unsanctioned operation, after fully restraining Reggie Ledoux and locating two young children who have been kidnapped and locked in the back of a moving truck, Hart, distraught with what he has seen, walks directly up to Reggie and shoots him in the head while he is in handcuffs. Clearly, any threat Ledoux may have posed no longer existed and therefore his death was possibly second degree murder or, more likely, manslaughter.<sup>126</sup> This homicide could be attributable to Cohle for a few potential reasons – as either part of the conspiracy to kidnap Ginger<sup>127</sup> or, more likely, due to the fact that he aids and abets in it and is therefore a principal under Louisiana law.<sup>128</sup> After seeing his cousin killed, Dewall attempts to flee for his life and Cohle shoots at him, which, at least in part, causes Dewall to get blown to pieces by his homemade booby traps and would unquestionably be attributable to Cohle as, at the very least,

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124. LA. REV. STAT. ANN. § 14:63 ((A) “No person shall enter any structure . . . owned by another without express, legal, or implied authorization. . . . (G) The following penalties shall be imposed for a violation of this Section: (1) For the first offense, the fine shall be not less than one hundred dollars and not more than five hundred dollars, or imprisonment for not more than thirty days, or both”). But, at least, in this instance, Cohle and Hart may be able to argue that they were acting within the scope of their duties in attempting to make an arrest.

125. *Compare* State v. Byers, 359 So.2d 84 (La.1978) (holding that that a search and seizure conducted on the private land of defendant for marijuana violated the Fourth Amendment where the marijuana was not visible from the public road and the private road was posted and a chain barred access to the private road), *with* State v. Dupuis, 378 So. 2d 934, 937 (La. 1979) (noting that “[a]lthough the officers were trespassing, the defendants had no reasonable expectation of privacy as to this field” because they shared it with others and there were “no signs, fences or gates to exclude the public”).

126. LA. REV. STAT. ANN. § 14:30.1 ((A) “Second-degree murder is the killing of a human being: (1) When the offender has a specific intent to kill or to inflict great bodily harm . . . (B) Whoever commits the crime of second-degree murder shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence”); LA. REV. STAT. ANN. § 14:31 ((A) “Manslaughter is: (1) A homicide which would be murder under either Article 30 (first degree murder) or Article 30.1 (second degree murder), but the offense is committed in sudden passion or heat of blood immediately caused by provocation sufficient to deprive an average person of his self-control and cool reflection. . . . (B) Whoever commits manslaughter shall be imprisoned at hard labor for not more than forty years”).

127. *See supra* note 63.

128. LA. REV. STAT. ANN. § 14:24 (“All persons concerned in the commission of a crime, whether present or absent, and whether they directly commit the act constituting the offense, aid and abet in its commission, or directly or indirectly counsel or procure another to commit the crime, are principals”). CCC = 34; CMST = 612 years, 6 months, plus 2 life, 2 death.

manslaughter.<sup>129</sup> Following the shooting of the two Ledoux, in order to cover up what had just occurred, Cohle tells Hart to take off Reggie Ledoux's handcuffs and shoots an "AK" assault rifle toward where he and Hart entered the property in order to make their story look plausible. As a result, Cohle has also tampered with evidence.<sup>130</sup>

After the intense scene in 1995 where Marty and Rust kill the Ledoux and emerge as heroes, the story abruptly fast-forwards to 2002, where the two detectives' lives have evolved. Marty's daughters are older and, as a result, Marty finds himself struggling with everything that comes along with maintaining his fidelity, sobriety, and normal family relationships. Rust, on the other hand, has a girlfriend and has apparently gained the reputation as the "go-to" detective for confessions in the Louisiana State Police, which leads to the next violation of law and protocol by Cohle that occurs during his interrogation of a double murder suspect in a completely unrelated case. After Cohle has been called in by some other officers to obtain a confession, which he is successful in securing, in an effort to help himself the suspect says that he knows Cohle and that Cohle did not get all of the guys in 1995 and, most importantly, says that he knows about the "Yellow King,"<sup>131</sup> which was apparently not something that was made public by the Louisiana State Police in 1995. The mention of this confidential fact causes Cohle to commit battery<sup>132</sup> by slapping the suspect and throwing him up against the wall and, since the suspect was in police custody, Cohle's actions would also be considered intimidation by an officer.<sup>133</sup> Following the incident, Cohle is removed from the interrogation

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129. See *supra* note 126. CCC = 35; CMST = 652 years, 6 months, plus 2 life, 2 death.

130. LA. REV. STAT. ANN. § 14:134.2 ((A) "It shall be unlawful and constitute malfeasance in office for a peace officer to tamper with evidence. . . . (2) For purposes of this Section, 'tampering with evidence' is the intentional alteration, movement, removal, or addition of any object or substance when the peace officer: (a) Knows or has good reason to believe that such object or substance will be the subject of any investigation by state, local, or federal law enforcement officers, and (b) Acts with the intent of distorting the results of such an investigation. (B) Whoever violates this Section shall be fined not more than ten thousand dollars, or be imprisoned, with or without hard labor, for not more than three years, or both"). CCC = 36; CMST = 655 years, 6 months, plus 2 life, 2 death.

131. See *supra* note 50.

132. LA. REV. STAT. ANN. § 14:35 ("(A) Simple battery is a battery committed without the consent of the victim. (B) Whoever commits a simple battery shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both"). CCC = 37; CMST = 656 years, plus 2 life, 2 death.

133. LA. REV. STAT. ANN. § 14:40 ("Intimidation by officers is the intentional use, by any police officer . . . of . . . violence . . . designed to secure a confession or incriminating statement from the person in custody. . . . Whoever commits the crime of intimidation by officers shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both"). CCC = 38; CMST = 656 years, 6 months, plus 2 life, 2 death.

only to come back the next day to find that the suspect has committed suicide inside the jail after the suspect took a phone call from a pay phone on the side of a road. This furthers Cohle's conspiracy theory and, as a result, the episode concludes with Cohle going back to the school he had been to in 1995 where he unknowingly spoke with one of the killers, Errol Childress, while he was mowing grass. Once there, although Cohle trespasses onto the property, he does so in the performance of his duties and therefore has an affirmative defense<sup>134</sup> but finds more of the "devil nets" confirming what he had suspected, i.e., that they missed something or someone in 1995.

At this point, in 2012, Cohle's interrogation has reached a point where Detectives Gilbough and Papania begin making accusations toward Cohle and, in fact, they ask to search his storage unit. Realizing the detectives are not listening to his conspiracy theories, Cohle ends his interview at the conclusion of Episode Five. Accordingly, after the flurry of criminal activity by Cohle in the last two episodes, the total number of potential charges is thirty-eight (38) and a potential maximum sentence of 656 years in prison, two life sentences and two capital sentences.

#### VI. EPISODE SIX – HAUNTED HOUSES – “NICE HOOK MARTY.”<sup>135</sup>

This episode focuses on Rust's obsessive search for who else may have been involved in the murdered or missing women and children against the will of his superiors and the collapse of Marty's family life.<sup>136</sup> To that end, the episode begins with Marty committing two counts of aggravated battery<sup>137</sup> by beating two young men who were found in a car with Marty's

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134. LA. REV. STAT. ANN. § 14:63 ((A) “No person shall enter any structure . . . owned by another without express, legal, or implied authorization. . . . (E) The following persons may enter or remain upon the structure, watercraft, movable or immovable property, of another: (1) A duly commissioned law enforcement officer in the performance of his duties”).

135. Cohle, *True Detective: Haunted Houses* (HBO television broadcast Feb. 23, 2014).

136. For a more detailed recap of this episode, see Marshall Crook, ‘*True Detective, Season 1, Episode 6, ‘Haunted Houses’: TV Recap*, WALL ST. J. BLOG: SPEAKEASY (Feb 23, 2015), <http://blogs.wsj.com/speakeasy/2014/02/23/true-detective-season-1-episode-6-haunted-houses-tv-recap/>.

137. Another possible charge is intimidation by officers under La. Rev. Stat. Ann. §14:40. However, one element of that crime requires that the action be “designed to secure a confession or incriminating statement from the person in custody.” *Id.* That was clearly not the case here and therefore would fall squarely under the aggravated battery statute. In addition, the accused men would also have a claim against Marty for a violation for their constitutional rights under 42 U.S.C. §1983.

daughter in “various states of undress” as he warns them that “a man’s game charges a man’s price.”<sup>138</sup>

Also in this episode, for the first time, Detectives Gilbough and Papania are interrogating someone other than Marty and Rust. They question Marty’s wife, Maggie, who provides some perspective as to why Marty and Rust no longer speak to one another and details, at least for the audience, the breakdown in the relationships between her and Marty and Marty and Rust – both personally and professionally. From the professional standpoint, Cohle’s change in attitude can be seen during an interview with a mother who killed a baby when Rust gets the mother to sign a lengthy confession and tells her that “[p]rison is very tough on people who hurt kids. If you get the opportunity, you should kill yourself.”<sup>139</sup> Once out of that interview, the friction between Marty and Rust is apparent and Rust condescendingly throws the written confession at Marty asking him to type up the report for him because Rust is busy continuing the off-the-record investigation into the dead/missing women and children.

This renewed investigation leads Rust back to the schools created by the prominent Billy Lee Tuttle, whom they first dealt with back in 1995. The unauthorized investigation finds Rust in the principal’s office so to speak after he visits Tuttle and begins asking questions about the past programs and schools Tuttle was involved in. After being told to let it go by his superiors, Rust decides to visit the little girl he and Marty saved in 1995 and once his superiors find out about his visit, they immediately give him a one-month suspension without pay for insubordination and misallocation of departmental funds and thirty hours of counseling. Although Rust would likely have a persuasive argument that the discipline imposed on him was in violation of his due process rights, he appears to accept it.<sup>140</sup>

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138. *True Detective: Haunted Houses* (HBO television broadcast Feb. 23, 2014).

139. *True Detective: Haunted Houses* (HBO television broadcast Feb. 23, 2014). This in and of itself would likely not be enough to charge him with a crime, even if she did ultimately kill herself as there is not enough of a direct threat. There has been, however, a recent case where prosecutors have charged someone for encouraging another to commit suicide. Abby Phillip, ‘Get back in’: Teen charged with pressuring boyfriend to commit suicide, WASH. POST (Mar. 2, 2015), <http://www.washingtonpost.com/news/morning-mix/wp/2015/03/02/get-back-in-there-teen-charged-with-pressuring-boyfriend-to-commit-suicide/>.

140. See generally LA. REV. STAT. ANN. § 40:2531 ((B) “Whenever a police employee or law enforcement officer is under investigation, the following minimum standards shall apply: . . . (7) The board shall set the matter for hearing and shall provide notice of the hearing to the police employee or law enforcement officer who is under investigation. . . . There shall be no discipline, demotion, dismissal, or adverse action of any sort taken against a police employee or law enforcement officer unless the investigation is conducted in accordance with the minimum standards provided for in this Section. Any discipline, demotion, dismissal, or adverse action of any sort whatsoever taken against a police



The most critical aspect of this episode is the incident that explains the question the audience and interrogating detectives have had since the beginning, i.e., what happened to the relationship between Hart and Cohle? The answer to that question is that Rust has sex with Maggie<sup>141</sup> once she discovers Marty was receiving inappropriate picture messages from a young woman<sup>142</sup> and suspects that he is having another affair. After her discovery, Maggie purposefully seduces Cohle in order to ensure that, once she tells Marty about it, Marty will have no choice but to end his marriage with Maggie. Her plan works and when Rust shows up at the state police detachment during his suspension to pick up files, Marty immediately tackles Rust and starts a fight that ultimately ends with both men bloody and the red tail light cover of Rust's pick-up truck damaged. Marty was clearly the aggressor and there is nothing Cohle does that seems to switch the role of aggressor back to him and therefore Cohle likely does not commit any crimes in defending himself from Marty.<sup>143</sup> After the fight, the show comes back to 2012 and Marty tells the detectives that after Cohle quit the state police he has not seen him since. Marty then figures out that the detectives are looking at Cohle for the new murder and decides to end the interview. As he drives away from the interrogation, Rust, in the same red pick-up truck from 2002, follows Marty with the same broken tail light cover. Thus, at the end of the episode, the only real crime Cohle commits in Episode Six is in 2012 when he is seen driving a vehicle that does not have two red "stop lamps" and therefore is not street legal.<sup>144</sup>

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employee or law enforcement officer without complete compliance with the foregoing minimum standards is an absolute nullity").

141. Not that Cohle would care, but this would violate the Tenth Commandment. Exodus 20:17 ("[T]hou shalt not covet thy neighbour's wife . . .").

142. The woman happens to be the young girl Beth that Marty and Rust met back at the "bunny ranch" in 1995. *See supra* n. 49.

143. LA. REV. STAT. ANN. § 14:21 ("A person who is the aggressor or who brings on a difficulty cannot claim the right of self-defense unless he withdraws from the conflict in good faith and in such a manner that his adversary knows or should know that he desires to withdraw and discontinue the conflict").

144. LA. REV. STAT. ANN. § 32:306 ("A. No person shall . . . operate on the highways of this state any motor vehicle . . . unless it is equipped with at least two stop lamps meeting the requirements of R.S. 32:319[.]"); LA. REV. STAT. ANN. § 32:319 ("A. Any vehicle may be equipped and when required under this chapter, shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red light, visible from a distance of not less than 300 feet to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake, and which may, but need not be, incorporated with one or more other rear lamps."); LA. REV. STAT. ANN. § 32:57 ("A. The first violation of the provisions of this Chapter or any regulation of the department, secretary, and commissioner made pursuant thereto shall be punished by a fine of not more than one hundred seventy-five dollars or by imprisonment for not more than thirty days, or both,

VII. EPISODE SEVEN – AFTER YOU’VE GONE – “HIGH PRAISE FROM A BARTENDER.”<sup>145</sup>

In the penultimate episode, after Marty has walked out of the interview with Detectives Gilbough and Papania and is approached by Cohle, the two go to a bar where Rust tells Marty: “We left something undone. We have to fix it.”<sup>146</sup> After Rust explains that he has something to show Marty, they leave the bar and go to a storage garage that Rust has rented. Rust dramatically reveals that he has been working through evidence in hopes of finding the “Yellow King” and needs Marty’s help. At first Marty declines, but then Rust says he staked out Reverend Billy Lee Tuttle’s homes in Shreveport, Baton Rouge, and New Orleans and committed three counts of burglary,<sup>147</sup> one count of destruction of property for breaking the safe,<sup>148</sup> and one count of theft for stealing a videotape from one of the homes.<sup>149</sup> Cohle says that he was aware that he may have lost his mind until he finds the videotape, which he shows Marty and contains the ritualistic murder of Marie Fontenot – a young girl who went missing around 1995 and the detectives were aware of during their investigation into the Dora Lange case. Although the audience is not certain whether there are

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unless otherwise specifically provided”). CCC = 39; CMST = 656 years, 7 months, plus 2 life, 2 death.

145. Hart, *True Detective: After You’ve Gone* (HBO television broadcast Mar. 2, 2014).

146. *True Detective: After You’ve Gone* (HBO television broadcast Mar. 2, 2014).

147. LA. REV. STAT. ANN. § 14:62.2 (“A. Simple burglary of an inhabited home is the unauthorized entry of any inhabited dwelling, house, apartment, or other structure used in whole or in part as a home or place of abode by a person or persons with the intent to commit a felony or *any theft therein* . . . B. Whoever commits the crime of simple burglary of an inhabited dwelling shall be imprisoned at hard labor for not less than one year, without benefit of parole, probation or suspension of sentence, nor more than twelve years.”)(emphasis added); CCC = 40-42; CMST = 692 years, 7 months, plus 2 life, 2 death.

148. LA. REV. STAT. ANN. § 14:56 (“A. (1) Simple criminal damage to property is the intentional damaging of any property of another, without the consent of the owner, and except as provided in R.S. 14:55, by any means other than fire or explosion. . . . B. (1) Whoever commits the crime of simple criminal damage to property where the damage is less than five hundred dollars shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.”); CCC = 43; CMST = 693 years (rounding down one month), plus 2 life, 2 death.

149. LA. REV. STAT. ANN. § 14:67 (“A. Theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential. B. . . . (4) When the misappropriation or taking amounts to less than a value of seven hundred fifty dollars, the offender shall be imprisoned for not more than six months, or may be fined not more than one thousand dollars, or both”). CCC = 44; CMST = 693 years, 6 months, plus 2 life, 2 death.

sexual acts on the videotape, which would constitute possession of child pornography,<sup>150</sup> Cohle's discovery of and possession of the tape is, at the very least, a failure to report a crime that must be reported under Louisiana law, i.e., homicide of a child.<sup>151</sup> Indeed, Marty tells Rust that he "shouldn't have that" and Rust cleverly responds that "[n]obody should have [it]."<sup>152</sup>

This new evidence convinces Marty that he needs to help Rust and, in an effort to make things right, the two work through different channels and come to find out that one of their old colleagues at the Louisiana State Criminal Investigative Division, former detective and current Sheriff of Iberia Parish Steve Geraci,<sup>153</sup> was the individual who originally took the information on the Marie Fontenot missing person case and closed it by relying on his supervisor's orders without sufficient investigation. According to Marty, now that Geraci is a sheriff, only the Governor can arrest him,<sup>154</sup> but Cohle quips that they are not going to arrest him and that

150. 18 U.S.C. § 2252A("a) Any person who-- (5) either-- . . . (B) knowingly possesses . . . any . . . videotape. . . that contains an image of child pornography that has been mailed, or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in or affecting interstate or foreign commerce by any means . . .").

151. LA. REV. STAT. ANN. § 14:131.1 ("A. It shall be unlawful for any person having knowledge of the commission of any homicide, rape, or sexual abuse of a child to fail to report or disclose such information to a law enforcement agency or district attorney . . . B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned, with or without hard labor, for not more than one year, or both"). CCC = 45; CMST = 694 years, 6 months, plus 2 life, 2 death.

152. *True Detective: After You've Gone* (HBO television broadcast Mar. 2, 2014).

153. *See supra* text accompanying note 17.

154. Although nearly all of the sheriffs in Louisiana are constitutional officers, there does not appear to be any provision that specifically says only the Governor of Louisiana can arrest a sheriff. *See* LA. CONST. art. V, § 27 ("In each parish a sheriff shall be elected for a term of four years. He shall be the chief law enforcement officer in the parish, except as otherwise provided by this constitution, and shall execute court orders and process. He shall be the collector of state and parish ad valorem taxes and such other taxes and license fees as provided by law."); *see also* LA. REV. STAT. ANN. § 40:1379 (2015) (stating the duties and powers of Louisiana State Police employees are to, among other things, "prevent and detect crime, apprehend criminals, enforce the criminal and traffic laws of the state, keep the peace and good order in the state in the enforcement of the state's police powers, and perform any other related duties imposed upon them by the legislature." and they are "peace officers and, any provision of the law to the contrary notwithstanding, except R.S. 40:1386, they have, in any part of the state, the same powers with respect to criminal matters and the enforcement of the law relating thereto as *sheriffs*, constables, and police officers have in their respective jurisdictions. They have all the immunities and matters of defense now available or hereafter made available to *sheriffs*, constables, and any police officers in any suit brought against them in consequence of acts done in the course of their employment." and "[a]ny warrant of arrest or other process issued by . . . any court of the

if he refuses to talk, Rust has got a “car battery and jumper cables that say different.”<sup>155</sup> Even though Marty initially tries to gather information from Geraci through proper and more sophisticated channels, he quickly realizes that Geraci clearly is not being honest with him and therefore tells Cohle that he “better get those jumper cables ready.”<sup>156</sup> Then, the two come up with a plan – conspiracy<sup>157</sup> – to falsely imprison the sheriff<sup>158</sup> by assaulting him with a firearm<sup>159</sup> and taking the sheriff’s firearm.<sup>160</sup> To get him alone,

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state may be served and executed by any police employee of the division in any part of the state according to the tenor thereof without endorsement. . . .”) (emphasis added); *but see* S.C. CODE ANN. § 23-15-120 (2014) (“If the sheriff shall be a party plaintiff or defendant in any judicial process, execution, warrant, summons or notice to be served or executed within his county, the coroner shall serve or execute such process, execution, warrant, summons or notice. In the discharge of such duties he shall incur such liabilities as would by law attach to their performance by the sheriff himself.”). At the very least, certainly the federal government can arrest a sheriff. *See, e.g.*, Press Release, Federal Bureau of Investigation, Ouachita Parish Sheriff Arrested, (Feb. 24, 2012) <http://www.fbi.gov/neworleans/press-releases/2012/ouachita-parish-sheriff-arrested>.

155. *True Detective: After You’ve Gone* (HBO television broadcast Mar. 2, 2014).

156. *Id.*

157. LA. REV. STAT. ANN. § 14:26.D. (2015) (“Whoever is a party to a criminal conspiracy to commit any other crime shall be fined or imprisoned, or both, in the same manner as for the offense contemplated by the conspirators; but such fine or imprisonment shall not exceed one-half of the largest fine, or one-half the longest term of imprisonment prescribed for such offense, or both.”) Since the maximum sentence for false imprisonment with a dangerous weapon is ten years, the maximum sentence for conspiracy to commit the same is five years. *see infra* text accompanying notes 157-60; *see generally* State v. Sizemore, 129 So. 3d 860, 870 (La. Ct. App. 2013) (“Because the second degree murder charge carries a mandatory life sentence, the maximum sentence for the defendant’s conspiracy to commit second degree murder conviction was thirty years.”) CCC = 46; CMST = 694 years, 6 months, plus 2 life, 2 death.

158. *Sizemore*, 129 So. 3d at 865 (“Additionally, we note that La.R.S. 14:26(B) specifically permits prosecution for both conspiracy and the completed underlying crime.”); LA. REV. STAT. ANN. § 14:46.1.A., B. (2015) (“False imprisonment while armed with a dangerous weapon is the unlawful intentional confinement or detention of another while the offender is armed with a dangerous weapon. . . . Whoever commits the crime of false imprisonment while armed with a dangerous weapon shall be imprisoned, with or without hard labor, for not more than ten years.”). CCC = 47; CMST = 704 years, 6 months, plus 2 life, 2 death.

159. LA. REV. STAT. ANN. § 14:37.2.A., C. (2015) (“Aggravated assault upon a peace officer with a firearm is an assault committed upon a peace officer who is acting in the course and scope of his duties with a firearm. . . . Whoever commits an aggravated assault upon a peace officer with a firearm shall be fined not more than five thousand dollars, or imprisoned for not less than one year nor more than ten years, with or without hard labor, or both.”). Arguably, since this was a social setting, this provision would not apply. However, since both Cohle and Hart knew Geraci was a sheriff and their plan was perpetrated this way because of the fact that he was the sheriff, this charge could apply. At minimum, it would be aggravated assault with a firearm under LA. REV. STAT. ANN. § 14:37.4.A, C. (2015) (“Aggravated assault with a firearm is an assault committed with a

Marty and Geraci go fishing on a boat where Cohle hides and reveals himself when Geraci fails to adequately answer Marty's follow-up questions. The two show Geraci the video of Marie Fontenot's murder and find out that Geraci relied on information regarding her case from the sheriff at the time – Ray Childress. This information ultimately helps Hart and Cohle track down and figure out that the former sheriff is the illegitimate son of Reverend Billy Lee Tuttle's father and that the Ledoux's accomplice and likely suspect in the new Lake Charles murder is Ray Childress's son, Errol.

VIII. EPISODE EIGHT – FORM AND VOID – “DO I STRIKE YOU AS A TALKER OR A DOER[?]”<sup>161</sup>

The final episode allows Marty and Cohle to rack up a few more crimes during their encounter with Sheriff Geraci. Specifically, when Geraci hints that he will track the boat to the two of them, both indicate that they have no idea whose boat it was and therefore likely borrowed the boat without permission and criminally trespassed onto it.<sup>162</sup> Since the boat's owner would likely eventually find the boat, there is no intention to permanently deprive the owner of it and therefore, in addition to criminal trespass, the two could be charged with unauthorized use of a movable.<sup>163</sup>

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firearm. . . . Whoever commits an aggravated assault with a firearm shall be fined not more than ten thousand dollars or imprisoned for not more than ten years, with or without hard labor, or both.”). CCC = 48; CMST = 714 years, 6 months, plus 2 life, 2 death.

160. LA. REV. STAT. ANN. § 14:34.6.A., C. (2015) (“Disarming of a peace officer is committed when an offender, through use of force or threat of force, and without the consent of the peace officer, takes possession of any law enforcement equipment from the person of a peace officer or from an area within the peace officer's immediate control, when the offender has reasonable grounds to believe that the victim is a peace officer acting in the performance of his duty. . . . Whoever commits the crime of disarming of a peace officer shall be imprisoned at hard labor for not more than five years.”). CCC = 49; CMST = 719 years, 6 months, plus 2 life, 2 death.

161. *True Detective: Form and Void* (HBO television broadcast Mar. 9, 2014).

162. LA. REV. STAT. ANN. § 14:63 (“(A) No person shall enter any . . . watercraft, or movable owned by another without express, legal, or implied authorization. . . . (G)(1) For the first offense, the fine shall be not less than one hundred dollars and not more than five hundred dollars, or imprisonment for not more than thirty days, or both”). CCC = 50; CMST = 719 years, 7 months, plus 2 life, 2 death.

163. LA. REV. STAT. ANN. § 14:68 (“(A) Unauthorized use of a movable is the intentional taking or use of a movable which belongs to another, either without the other's consent . . . but without any intention to deprive the other of the movable permanently. . . . (B) Whoever commits the crime of unauthorized use of a movable having a value in excess of five hundred dollars shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than five years, or both”). CCC = 51; CMST = 734 years, 7 months, plus 2 life, 2 death.

Then, in order to preempt Geraci from trying to get justice on the two of them for kidnapping and assaulting him, they say that they would feel much better if Geraci's Maserati accidentally went over the guardrail, which, at that point was only banter and likely not enough to be considered a true threat and assault.<sup>164</sup> To ensure their safety, however, they take his gun and cell phone and although they say Geraci will get them back, they have committed two more counts of unauthorized use of a movable.<sup>165</sup> Further, they then extort him by saying if he reports them or tries to injure them, his fingerprints are on the video and they will say that they found the tape in his possession.<sup>166</sup>

More troubling for Geraci though, is when Cohle says that a contract to kill him has already been paid should anything happen to them and therefore Cohle has committed solicitation for murder.<sup>167</sup> Although it is

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164. *Groff v. Southwest Bev. Co.*, 997 So. 2d 782, 787 (La. Ct. App. 2008) (noting that mere words do not constitute an assault but a combination of threats, ability to carry out the threats, and reasonable apprehension may suffice).

165. LA. REV. STAT. ANN. § 14:68 (“(A) Unauthorized use of a movable is the intentional taking or use of a movable which belongs to another, either without the other’s consent . . . but without any intention to deprive the other of the movable permanently. . . . (B) Whoever commits the crime of unauthorized use of a movable having a value of five hundred dollars or less shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both”); LA. REV. STAT. ANN. § 9:3306 (“(19) Movable property’ or ‘movables’ means corporeal movables, as provided under Civil Code Article 471”); LA. CIV. CODE ANN. art. 471 (2015) (“Corporeal movables are things, whether animate or inanimate, that normally move or can be moved from one place to another”). Assuming the phone and gun each are less than \$500, then: CCC = 52, 53; CMST = 735 years, 7 months, plus 2 life, 2 death.

166. LA. REV. STAT. ANN. § 14:66 (“(A) Extortion is the communication of threats to another with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity of any description. Any one of the following kinds of threats shall be sufficient to constitute extortion: (1) A threat to do any unlawful injury to the person or property of the individual threatened or of any member of his family or of any other person held dear to him. (2) A threat to accuse the individual threatened or any member of his family or any other person held dear to him of any crime. (3) A threat to expose or impute any deformity or disgrace to the individual threatened or to any member of his family or to any other person held dear to him. (4) A threat to expose any secret affecting the individual threatened or any member of his family or any other person held dear to him. (5) A threat to cause harm as retribution for participation in any legislative hearing or proceeding, administrative proceeding, or in any other legal action. (6) A threat to do any other harm. (B) Whoever commits the crime of extortion shall be imprisoned at hard labor for not less than one nor more than fifteen years”). CCC = 54; CMST = 750 years, 7 months, plus 2 life, 2 death.

167. LA. REV. STAT. ANN. § 14:28.1 (“(A) Solicitation for murder is the intentional solicitation by one person of another to commit or cause to be committed a first or second degree murder. (B) Whoever commits the crime of solicitation for murder shall be

contingent on Geraci doing anything to them, it is certainly an agreement and for hire murder of a public official, which would be first degree murder if consummated.<sup>168</sup> Angrily, Geraci tries to threaten them but Rust reminds him that he is a “doer” and gives a signal for a nearby sniper-friend to rain bullets down on Geraci’s Maserati – destruction of property<sup>169</sup> and another count of aggravated assault with a firearm,<sup>170</sup> imputable to Cohle.<sup>171</sup>

Having gathered the useful information from Geraci about the ex-sheriff Childress, the former detectives use their skills to figure out that the likely culprit of the Lake Charles murder was someone they had actually spoken to in 1995 by uncovering a tree of relationships that Cohle and Hart connect to Reverend Billy Lee Tuttle and his brother Edwin Tuttle, who was the Governor of Louisiana in 1995 and a United States Senator in 2012. Their investigation ultimately leads them to a remote home of the son of the former sheriff, Errol Childress, and the final action scene of the show takes place when the two arrive at Childress’s house. As soon as they get out of the car, Cohle’s detective instinct takes over and he immediately knows “this is the place.”<sup>172</sup> When Marty goes toward the house, Rust moves towards another structure, finds Errol, and then chases him into a labyrinth of passages that ultimately lead to what appears to be an altar room – “Carcosa.” Once inside, Rust is attacked by Errol, stabbed in the stomach, and, before collapsing, forced to head-butt Errol multiple times in self-defense. Having been separated as soon as they arrived, Marty then comes to Rust’s aid, but is overcome by Errol throwing a hatchet that hits Marty in his chest. As Errol is about to deliver a final blow that likely would have

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imprisoned at hard labor for not less than five years nor more than twenty years”). CCC = 55; CMST = 770 years, 7 months, plus 2 life, 2 death.

168. LA. REV. STAT. ANN. § 14:30 ((A) “First degree murder is the killing of a human being: . . . (2) When the offender has a specific intent to kill or to inflict great bodily harm upon a . . . peace officer . . . when the specific intent to kill . . . is directly related to the victim’s status as a . . . peace officer[.]”).

169. LA. REV. STAT. ANN. § 14:56 ((A) (1) “Simple criminal damage to property is the intentional damaging of any property of another, without the consent of the owner, and except as provided in R.S. 14:55, by any means other than fire or explosion. . . . (B) (1) Whoever commits the crime of simple criminal damage to property where the damage is less than five hundred dollars shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.”); CCC = 56; CMST = 771 years (rounding down one month), plus 2 life, 2 death.

170. LA. REV. STAT. ANN. § 14:37.4. ((A) “Aggravated assault with a firearm is an assault committed with a firearm. . . . (C) Whoever commits an aggravated assault with a firearm shall be fined not more than ten thousand dollars or imprisoned for not more than ten years, with or without hard labor, or both.”). CCC = 57; CMST = 781 years, plus 2 life, 2 death.

171. See LA. REV. STAT. ANN. § 14:24; LA. REV. STAT. ANN. § 14:26.

172. *True Detective: Form and Void* (HBO television broadcast Mar. 9, 2014).

killed Marty, Cohle momentarily is able to get to his gun and uses deadly force to kill Errol and save Marty – a text book case of defense of others.<sup>173</sup>

Badly injured from his encounter with Childress, Cohle awakes at the hospital to find that he and Marty helped take down a serial killer, but is upset that the authorities have not connected Errol and the Ledoux to any prominent figures who were involved in the ritualistic killings of the women and children in southern Louisiana, including the Tuttle family. Despite that, during his conversation with Marty about the stars in the night sky and how they are about “one story . . . the oldest . . . light versus dark,” Rust is uncharacteristically optimistic and counters Marty’s pessimistic view that the “dark has a lot more territory” with that to the contrary – according to Cohle, “the light is winning.”<sup>174</sup>

### CONCLUSION

Despite all of the laws broken by Rust Cohle during the first season of the *True Detective* series, his bravery and search for the truth and justice, albeit somewhat misguided, is evident throughout all eight episodes. Nonetheless, by this Article’s estimate, he could have reasonably been charged with violating approximately fifty-seven (57) Louisiana and Texas states statutes in total and, as a result, could have cumulatively faced a maximum of 781 years in prison, plus two potential life sentences and two potential sentences for capital murder in Texas. Again, this does not even count the several federal statutes that Cohle also violated. At the end of the day, however, no matter how bad some of the things Rust Cohle did, it was all fiction and therefore perhaps the worst injustice were the award shows that failed to recognize McConaughey’s performance as the best on television in 2014.<sup>175</sup>

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173. LA. REV. STAT. ANN. § 14:22 (“It is justifiable to use force or violence or to kill in the defense of another person when it is reasonably apparent that the person attacked could have justifiably used such means himself, and when it is reasonably believed that such intervention is necessary to protect the other person.”); *see also* State v. Trosclair, 34 So. 3d 1167 (La. Ct. App. 2010).

174. *True Detective: Form and Void* (HBO television broadcast Mar. 9, 2014).

175. Ramin Setoodeh, *Emmys: The Biggest Snubs and Surprises*, VARIETY (Aug. 25, 2014), <http://variety.com/2014/tv/awards/emmys-the-biggest-snubs-and-surprises-1201290509/>. Nick Venable, *Wait, How Did True Detective Get Shut Out At The Golden Globes?*, CINEMABLEND, <http://www.cinemablend.com/television/Wait-How-Did-True-Detective-Get-Shut-Out-Golden-Globes-69402.html> (last visited June 4, 2015); Michael Hewitt, *Review: ‘True Detective’s’ 2nd Season Disappoints*, THE ORANGE COUNTY REGISTER (TNS), published in THE DOMINION POST (July 9, 2015) at 3-C (“Season 1 was remarkably good television – pushed to excellence by movie-worthy directing, an interesting story . . .



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an one remarkable character in Rust Cohle, brought to life in a great performance by Matthew McConaughey. Cohle was unlike any character we had seen to date . . .”).