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Prime-Time Lies: Do Portrayals of Lawyers Influence How People Think about the Legal Profession

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PRIME-TIME LIES: DO PORTRAYALS OF LAWYERS INFLUENCE HOW PEOPLE THINK ABOUT THE LEGAL PROFESSION?

Victoria S. Salzmann*
Philip T. Dunwoody**

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I. INTRODUCTION

THE image is a familiar one: a dark mahogany-paneled courtroom, resplendent with beautiful sconces and American flags; a jury enclosed in a spindled jury box, fanning themselves in boredom or rapt with attention; a stern-faced judge sitting on a high bench ready to dole out either pithy words of wisdom or mete out punishment; and our hero, the attorney, fighting to free his innocent client or reverse the wrong done to the innocent victim. These are the images of the American courtroom as it has been shown on television and in movies since the 1930s. Almost every person in this country can visualize the massive process known as “the law” by calling up these familiar images. They are so ingrained, in fact, that many people entering modern, urban courtrooms are unsure whether they are in the right place. They expect courtrooms, lawyers, judges, and even “the law” to look and act in a particular way because that is what they have learned through popular culture. Without personal experience to provide a benchmark, society has come to rely on celluloid images as modern reality.

Hollywood has long used the cinematic courtroom as a tool to make social and political statements or manipulate public perception. For example, one commentator contended that the “golden age” of legal cinema was a response to the anti-Communist climate of the 1950s and an attempt by the film industry to appear more “American.”¹ But the true impact of these popular culture images may have accomplished more than even prodigious screenwriters, directors, and movie and television producers desired.² Instead of providing a means of commentary on social issues, movies and television have become our primary information source. And, for the mysterious process known as the law, celluloid images are often the *only* source of information. Thus, while the law has always been what we as society have created, it has also become something else—what we see on TV.

1. David Ray Papke, *Law, Cinema, and Ideology: Hollywood Legal Films of the 1950s*, 48 UCLA L. REV. 1473, 1487 (2001) [hereinafter Papke, *Law*]. During the decade following World War II, the American government took special interest in ridding the nation of communist threats. *Id.* The United States Chamber of Commerce alleged that communists dominated the Screen Writers Guild. *Id.* In response to these allegations and the McCarthy hearings that followed, the American film industry took special interest in promoting pro-American themes, including the superiority of the American justice system. *Id.* at 1490. One can only speculate how this “soft” propaganda has influenced modern perceptions of the legal field as an idealized process.

2. Of course, sometimes the social issues espoused by the filmmaker are actually lost on the audience. For example, Francis Ford Coppola experienced frustration when his *GODFATHER* (Paramount Pictures 1971) trilogy was met “with reverence, rather than in opposition to American myths.” David Ray Papke, *Myth and Meaning: Francis Ford Coppola and the Popular Response to the Godfather Trilogy*, in *LEGAL REELISM* 1, 2 (John Denvir ed., 1996). Likewise, Spike Lee’s film *DO THE RIGHT THING* (Spike Lee 1982) was met with commercial success and audience approval due to its “commercial attractiveness, rather than to the American public’s receptiveness to Lee’s underlying political statement.” Margaret M. Russell, *Rewriting History with Lightning: Race, Myth, and Hollywood in the Legal Pantheon*, in *LEGAL REELISM* 173, 183 (John Denvir ed., 1996).

These theories are at the heart of the “pop-culture legal-realist movement”—a growing body of scholarship examining the symbiotic relationship between popular culture and the law:

Those who write in this field believe that the public learns most of what it thinks it knows about law, lawyers and the legal system from the works of popular legal culture. They believe that information or misinformation gleaned from popular culture has a significant impact on “law” in the legal realist sense: what judges, jurors, attorneys, legislators, voters, and ordinary consumers or producers actually do in their contracting, fact-finding, law-applying, and law-making functions. They are convinced that popular culture mirrors, often in an exaggerated and caricatured form, actual popular attitudes and beliefs about the institutions and characters that it describes.³

In other words, movies change perceptions of the legal process, and that process then conforms to our expectations. Legal realists have noted that popular-culture portrayals of the law may be the only first-hand legal experience that most of society has before being involved in any litigation.⁴ They believe that understanding the perception of popular culture will aid lawyers, legal scholars, and legal professors in “communicat[ing] effectively with an otherwise legally virginal audience.”⁵ Under the pop-culture legal-realist theory, the problem with the “false reality” of law practice is the gap between the filmmaker’s views of legal practice and legal reality.⁶ Celluloid attorneys fight the good fight, often against insurmountable odds. And, in doing so, these fictitious attorneys create unrealistic expectations in an entire host of people: clients who have unreasonable expectations about what their attorney can do, laypersons who think justice prevails despite the realities of law, and attorneys themselves who are completely disenchanted with the realities of a boring and mundane practice.

To test the foundation of the pop-culture legal-realist movement—that laypersons’ perceptions of lawyers are influenced by popular culture de-

3. See, e.g., Michael Asimow, *Embodiment of Evil: Law Firms in the Movies*, 48 UCLA L. REV. 1339, 1341 (2001) [hereinafter Asimow, *Embodiment of Evil*]; see also Lawrence M. Friedman, *Law, Lawyers, and Popular Culture*, 98 YALE L.J. 1579, 1579 (1989); Brett Kitei, *The Mass Appeal of The Practice and Ally McBeal: An In-depth Analysis of the Impact of These Television Shows on the Public’s Perception of Attorneys*, 7 UCLA ENT. L. REV. 169 (1999).

4. See Jessica M. Sibley, *What We Do When We Do Law and Popular Culture*, 27 LAW & SOC. INQUIRY 139, 142 (2002) (reviewing RICHARD K. SHERWIN, *WHEN LAW GOES POP: THE VANISHING LINE BETWEEN LAW AND POPULAR CULTURE* (2000)); see also David A. Harris, *The Appearance of Justice: Court TV, Conventional Television, and Public Understanding of the Criminal Justice System*, 35 ARIZ. L. REV. 785, 786 (1993).

5. Sibley, *supra* note 4, at 142; Michael Asimow, *Bad Lawyers in the Movies*, 24 NOVA L. REV. 533, 550 (2000) [hereinafter “Asimow, *Bad Lawyers*”].

6. Ronald D. Rotunda, *Epilogue*, in *PRIME TIME LAW: FICTIONAL TELEVISION AS LEGAL NARRATIVE* 265 (Robert M. Jarvis & Paul R. Joseph eds., 1998) (noting that when people are asked about a lawyer they most admire, the response is often Ben Matlock because they do not understand he is a fictional character). For a very encompassing description and analysis of most legal films released prior to 1996, see PAUL BERGMAN & MICHAEL ASIMOW, *REEL JUSTICE: THE COURTROOM GOES TO THE MOVIES* (1996).

pictions—we decided to collect information concerning how lawyers are portrayed on television and compare that information to both the realities of law practice and student perceptions of lawyering. Surprisingly, we found that though the legal realists were correct in their estimations that celluloid attorney portrayals are significantly different from reality, we also found that these portrayals did not actually influence layperson perceptions of lawyering, at least in first-year law students. It does not appear to matter what attorneys are portrayed as doing on television; laypersons still have a realistic perception of lawyering. In short, the pop-culture legal realists may presume too much about the impact of media on perceptions of lawyering.

This Article explores the pop-culture legal-realist movement by testing one small aspect of the legal world: what lawyers do on a day-to-day basis. Part II discusses the foundation of the pop-culture legal-realist movement: the presumed synergism between popular culture and the realities of legal practice. It analyzes how legal realists believe popular culture influences public perception and, in turn, how the law itself is affected by popular culture stereotypes. Part III explores the gap between the real legal process and celluloid lawyering. First, it considers the traditional themes of popular culture's view of the law. Then, it explores how lawyers on prime-time television are portrayed by surveying and analyzing how much time is devoted to particular lawyering tasks during various shows. Part IV then tests the accuracy of these portrayals by comparing them to the responses of practicing lawyers who were asked to estimate how much time lawyers actually spend performing those tasks. Part V then explores whether these inaccurate portrayals actually affect lay perceptions of lawyering. Pop-culture legal realists theorize that because society acquires the majority of its perceptions about the law from television, celluloid portrayals of the law should result in a general misunderstanding of attorneys' activities. Our data, however, indicates otherwise. We found that inaccurate portrayals did not seem to impact the layperson's perception of lawyering.⁷ Accordingly, we believe the pop-culture legal realists may overstate the power of popular culture as an influence on perceptions of lawyering.

II. SYNERGISM BETWEEN POPULAR CULTURE AND THE LAW

A. POPULAR CULTURE'S INFLUENCE ON PUBLIC PERCEPTION

Most law students learn early that the law has no more power than society gives it. "The authority of law is in our knowledge of it, . . . the

7. This article primarily deals with activities of litigators, rather than lawyers in other areas of practice. We hypothesize that most people picture a litigator when they visualize lawyers. Legal realists would argue the visualization probably arises from the wealth of litigator portrayals on television and in the movies. Dramatic series rarely showcase life as a corporate lawyer because corporate, tax, real estate, and other disciplines do not always provide the most dramatic background for a fast-paced legal dilemma. Therefore, the data here reflects the life of a litigator.

sense that we know what to expect from law”⁸ Individuals create the law as something of a “collective agreement.” Society at large determines the bounds of behavior; the law is recorded as a memorialization of those bounds and individuals abide by them.⁹ Thus, the law remains a fluid circular process, constantly changing as its content is created, challenged, and abandoned. It conforms to current attitudes and societal norms. In essence, the law is a living thing that both shapes our lives and reacts to our desires. It is simply what we believe it should be. But, because the law is essentially just our understanding of it, the source of the collective knowledge plays particular importance.¹⁰

Under the pop-culture legal realists’ theory, the perception of what lawyers really do is understood via television, film, and literature.¹¹ This perception builds primarily because “the law operates in places and spaces that are partially hidden from public view.”¹² Lawyers operate under a cloud of mystery. Aside from attorneys, very few people have the opportunity to view all the aspects of lawyering in a given conflict from beginning to end. For example, even a client who retains a lawyer to pursue his claim will see only small snapshots of the litigation process. He may meet with the attorney, attend depositions, and be present at mediations and court proceedings, but he will not see the research hours, document drafting, phone conversations, attorney conferences, and discussions in chambers that accompany such litigation.¹³ And, even when that client does participate in various stages of litigation, he often cannot understand how his participation or that particular proceeding contributes to the overall legal process—much like a movie trailer cannot reveal the totality of emotion created by an Oscar-winning film. “The lay person enters by stepping into a metaphorical stream of legal activity. There is a specific place where this encounter occurs but much has come before and much takes place beyond.”¹⁴

8. John Brigham, *Representing Lawyers: From Courtrooms to Boardrooms and TV Studios*, 53 SYRACUSE L. REV. 1165, 1169 (2003).

9. “[T]he virtues of judicial expertise and prudence . . . operate at times as a counter-majoritarian check on public opinion, particularly when the latter runs afoul of important legal principles such as due process, among other constitutional safeguards.” See SHERWIN, *supra* note 4, at 5.

10. *Id.*

11. *Id.* at 4-5 (“Legal meanings are flattening out as they yield to the compelling visual logic of film and TV images and the market forces that fuel their production.”); *id.* at 18 (“For many, perhaps most, the mass media today are in fact the primary if not the exclusive source of the public’s knowledge about law, lawyers, and the legal system as a whole.”); see also Michael Asimow, *Introduction to Papers from UCLA’s Law and Popular Culture Seminar*, 9 UCLA ENT. L. REV. 87, 87 (2001) (noting that not only does the public learn most of what it knows about the law from popular culture, but that popular culture also has an effect on the formation of the law itself); Robin Paul Malloy, *Introduction to the Law and Humanities: Symposium on the Image of Law(Yers) in Popular Culture*, 53 SYRACUSE L. REV. 1161, 1161 (2003).

12. Malloy, *supra* note 11, at 1162.

13. To “most lay people the law appears visible in fragmented ways that are abstract and to a certain extent incomprehensible.” *Id.*

14. *Id.*

There is a medium, however, that "fills in the gaps." Pop-culture legal realists believe that television, film, and literature translate the mysterious world of the lawyer into a concrete process by revealing what lawyers do and where they do it. Through popular culture, the layperson seems to view the hidden world of the lawyer, presumably understanding how discrete events shape the legal process as a whole. The layperson can see that a document drafted or a deposition taken today will have very real consequences down the road. Television and movies appear to provide the viewer with a map of the whole rather than a glimpse of selected parts. Given the impact of television, the power to perform this function makes perfect sense.

It is almost impossible to guess the magnitude of television's impact on modern society:

With the single exception of the workplace, television is the dominant force in American life today. It is our marketplace, our political forum, our playground, and our school; it is our theater, our recreation, our link to reality, and our escape from it. It is the device through which our assumptions are reflected and a means of assaulting those assumptions.¹⁵

Television has replaced newspapers, radio, churches and even family as the primary force in our lives.¹⁶ More importantly, it has become the information source for many of its viewers.¹⁷ Where knowledge was once acquired through experience, it is now transmitted by passively watching the actions of others. In 1990, the A.C. Nielsen Company reported that the average American adult watched more than thirty hours of television per week.¹⁸ Today, with cable channel choices in the hundreds, that number has increased. On a webpage created by Fox Television to target advertisers, Fox estimates that 100,800,000, or 98.2%, of American households own televisions.¹⁹ Fox further estimates that the average household now watches seven hours and twenty-six minutes of television a day, or more than thirty-nine hours a week.²⁰ By the time a person has reached the age of seventy, he would have spent between seven and ten years in front of the television.²¹

And more importantly, television has become far more than an entertainment source. It is a diversion, a companion, and a source for our

15. Jeff Greenfield, *TELEVISION: THE FIRST FIFTY YEARS* 11 (Lory Frankel ed. 1977).

16. *Id.*; see also *id.* at 15 (noting that by the time television was twenty-five years old, it had driven the four most popular mass-circulation magazines out of business and rendered TV GUIDE the most popular magazine in the country).

17. Larry A. Viskochil, *FOREWORD, TUNED IN: TELEVISION IN AMERICAN LIFE* (University of Illinois Press 1991).

18. Daniel Goleman, *How Viewers Grow Addicted to Television*, N.Y. TIMES, Oct. 16, 1990, at C1.

19. Television Statistics, available at http://www.klsrtv.com/body_tv.htm (last visited Mar. 9, 2005).

20. *Id.*

21. American Academy of Pediatrics, Committee on Communications, *Children, Adolescents, and Television*, 96 PEDIATRICS 786, 786 (Oct. 1995) (citing A.C. Nielson & Co. data).

perception of reality. Psychologists have noted that many people use television as a substitute for human companionship.²² Individuals feel uncomfortable when faced with idle time and, in response, turn on the television to fill the void.²³ The unexpected side-effect of such viewing is a constant stream of information being "downloaded into and recorded by" the viewer's psyche. What the individual views as entertainment today becomes the reality to which she compares the events of tomorrow.

Social sciences recognize this information-gathering side effect as a necessity. Individuals watch television because they have "media system dependencies" including understanding dependency, orientation dependency, and play dependency.²⁴ Understanding dependency is the root of all social interaction.²⁵ Individuals strive to understand how to appropriately interact in unfamiliar situations. We seek to "understand the social environments within which we must act or anticipate acting, because meaningful social action cannot occur in the absence of a definition of a situation."²⁶ To meet these goals, people depend on the media to provide information about unfamiliar situations. We view how others interact and conform our behavior to those depictions, thus conquering the unknown. Our own personal experiences become secondary to those we see on television.²⁷ We depend on the media for our understanding of important social contexts that we may not encounter on our own. This need for contextual information forms the root of the understanding dependency.

The second dependency, orientation dependency, involves learning how to interact with others.²⁸ Even if an individual understands a particular social context, she might not understand how she is supposed to interact with others in that context. Take an agnostic who has never attended church. She may understand the purpose and content of the ceremony but may have no idea what to do if she actually attends. Likewise, a layperson may understand what a deposition is but would have no idea how to act if deposed. The media, however, bridges this information gap: "[f]or example, viewers of *The Peoples Court* television program not only may come to understand something about what a small claims court is all about but also may gain action orientation information on how to file a claim and how to behave as claimant or defendant."²⁹ Like the orientation need noted above, individuals use popular culture to shape their understanding of unfamiliar social situations and how they should interact in these otherwise unfamiliar circumstances. In essence, society

22. Goleman, *supra* note 18.

23. *Id.*

24. Sandra J. Ball-Rokeach et al., *THE GREAT AMERICAN VALUES TEST: INFLUENCING BEHAVIOR AND BELIEF THROUGH TELEVISION* 7 (1984). Of the three dependencies, the first two, understanding and orientation, are relevant here.

25. *Id.* at 8.

26. *Id.* at 7-8.

27. *Id.* at 8.

28. *Id.* at 9.

29. *Id.*

depends upon television to tell it what to expect and how to act.³⁰

The effects of television on children are even greater than the effect on adults. A 1993 study indicated that while outside of school, most American children spend more time watching television than doing any other activity.³¹ The television world becomes the real world because it is often a child's only source of information during the years he creates his societal foundation.³² Television depictions become a child's norm against which all future information will be judged. If a child sees excessive violence on television, he may come to believe that violence is an acceptable way to deal with conflict.³³ Similarly, children's perceptions of the law may be formed early through popular culture depictions.

And this phenomenon is not all buried in our subconscious moral foundations. The media overtly shapes our perception of an entire host of topics. This phenomenon is especially true for disciplines such as the law, history, or politics where the viewer has no personal framework on which to draw.³⁴ For example, "[t]he importance of press coverage of governmental activities in the policy-making arena is difficult to overestimate, as the media serve as the primary link between the government and the governed."³⁵ Over 100 million Americans watch the news everyday and nec-

30. See also Stuart Ewen, *Reflections on Visual Persuasion*, 43 N.Y.L. SCH. L. REV. 811 (2000) (discussing the overwhelming impact of visual images on perceptions and mass persuasions).

31. *Children, Adolescents, and Television*, *supra* note 21, at 786.

32. *Id.*; see also GREENFIELD, *supra* note 15, at 15 ("Children may well learn more from television than from their parents, who depend on television as a source of diversion for their children.")

33. *Children, Adolescents, and Television*, *supra* note 21, at 786 (noting a correlation between television-viewing and adolescent violence, pregnancy, sexually transmitted diseases, and alcohol-related deaths, likely indicating that children are desensitized to things that were once considered societal taboos).

34. Sherwin noted the same phenomenon:

[T]rial stories that offer the most familiar images, characters, and plot forms are the ones most likely to get on the air. Once ensconced there, they are more likely to stick in the viewer's mind In fact, the more they stick the more credible they become. This encourages lawyers and their public relations agents to pitch their clients' stories in terms of TV reality. In this way, the media's law stories lend credence not only to the legal reality they portray, but also to the media that portray them. By lending its badge of authority to the popular images and stories it embraces, law enhances not only its own persuasiveness and legitimacy, but also the persuasiveness and legitimacy of the media themselves.

As popular stock images, character types, and plot lines from commercial television acquire enhanced verisimilitude, TV's commerce-driven, attention-riveting programming increasingly comes to provide models for legal reality. It is as if the familiar images, categories, and story lines disseminated by the visual mass media are supplying cognitive heuristics for society as a whole. And whether true or not, it is on the basis of these compelling images that public policies, criminal statutes, and sentencing guidelines are being drafted and passed into law.

SHERWIN, *supra* note 4, at 167.

35. Elliot E. Slotnick, *Television News and the Supreme Court: A Case Study*, 77 JUDICATURE 21, 21 (1993); see also Elayne Rapping, *Television, Melodrama, and the Rise of the Victims' Rights Movement*, 43 N.Y.L. SCH. L. REV. 665, 665-66 (2000) (noting that the "Right to Life" movement depended on the "sentimental, emotionally loaded images and

essarily begin to form value-judgments based on how the media presents public issues.³⁶ Likewise, television has become the foundation for most popular perceptions of the law. However, unlike some social issues presented in the news, most people do not get their information about the law from critical media such as CNN, Fox News, C-Span, or Court TV; rather, legal information is gleaned from fictionalized portrayals of lawyers.³⁷ The authority of the law comes less from legal scholars and decision-makers and more from what the average person watches each night on television.³⁸

Some attorneys have already recognized this problem and complained that television creates unrealistic expectations in their clients, particularly in criminal-defendant clients.³⁹ Likewise, false perceptions are so far removed from the truth of lawyering that the profession itself is affected. Even lawyers have become disenchanted with their chosen career paths when they are faced with boring daily activities instead of exciting trials and client interactions. One scholar hypothesized that these dramatic portrayals are responsible both for "professional melancholy" caused when the daily life of a lawyer turns out to be much duller than that portrayed on screen, and for "public hostility toward lawyers" when real-life attorneys do not measure up to the heroic lawyers the public has come to expect.⁴⁰ In short, pop-culture legal realists believe that popular

narratives to influence our common understandings of and attitudes about criminal justice").

36. Slotnick, *supra* note 35, at 21-22.

37. Rotunda, *supra* note 6, at 265 (noting that when people are asked about a lawyer they most admire, the response is often Ben Matlock). Another compelling example of this phenomenon occurred during the notorious Terry Nichols Oklahoma City bombing trial. There, during jury selection, a prospective juror informed the lawyers that she believed Nichols must be guilty because Timothy McVeigh, his alleged accomplice, had already been sentenced to death for the crime, and her regular viewing of *Law & Order* indicated to her that Nichols must have been guilty as well. Kevin Johnson, *Potential Jurors Have Seen It Before, On Law & Order*, USA TODAY, Oct. 21, 1997, at 2A.

38. "The authority of law is not John Marshall In the United States of America, the authority of law is far more Stephen Spielberg (or David Kelley or Michelle Pfeiffer)" Brigham, *supra* note 8, at 1169.

39. David Ray Papke, Essay, *Conventional Wisdom: The Courtroom Trial in American Popular Culture*, 82 MARQ. L. REV. 471, 485 (1999) [hereinafter Papke, *Conventional Wisdom*]; David Ray Papke, *The American Courtroom Trial: Pop Culture, Courthouse Realities, and the Dream World of Justice*, 40 S. TEX. L. REV. 919, 930 (1999) [hereinafter Papke, *Courtroom*]; see also Harris, *supra* note 4, at 785 ("Television ensures that jurors are empanelled with ridiculous expectations." (quoting David Simon, *HOMICIDE* (1990))); Rowland S. Miller, *Confusion and Consternation, Misperceptions and Misperceptions on the Public's Misunderstanding of the Law*, 40 S. TEX. L. REV. 973 (1999). Modern portrayals of attorneys, particularly criminal defense attorneys, not only cast them as archetypal heroes, but also make them excellent private investigators where finding the missing clues is merely one more aspect to their job. See, e.g., Gail Levin Richmond, *Matlock, in PRIME TIME LAW: FICTIONAL TELEVISION AS LEGAL NARRATIVE* 58 (Robert M. Jarvis & Paul R. Joseph eds., 1998) (noting that shows such as *Matlock* and *Perry Mason* allowed their protagonists to "solve cases before the professionals did").

40. Papke, *Conventional Wisdom*, *supra* note 39, at 488. Papke also notes that these stereotypes often downplay the harsh realities of the legal world. For example, as a result of watching television and films, most viewers expect the legal system to be just, when the reality is often something different. *Id.*; see also Papke, *Law*, *supra* note 1, at 1486. Likewise, because minorities are usually depicted in film as judges, lawyers, or innocent defend-

culture has a very real impact on public perceptions of the law.

B. POPULAR CULTURE'S INFLUENCE ON LAW-MAKING⁴¹

Pop-culture legal realists also believe that the synergism between law and popular culture works in the opposite direction. They believe that popular culture not only creates society's perception of the legal process, but that it shapes the law itself. Richard K. Sherwin's book, *When Law Goes Pop: The Vanishing Line Between Law and Popular Culture*, explores the relationship between these contrasting phenomena and their impact on the legal process.⁴² Sherwin notes that the current media technology is changing the foundations of fundamental institutions as well as the institution of the law.⁴³ Popular culture and public perception of the law are "two stars, locked together by their own gravity and orbiting forever around each other;" popular culture creates perception and society uses that perception to create law.⁴⁴ First, popular culture mirrors existing public perceptions of lawyers and the legal process.⁴⁵ Second, popular culture teaches the public about the law by integrating new ideas into the viewer's preconceived framework of the law.⁴⁶ Then, when the viewers influence or change the law, they do so using the perceptions popular culture has given them.

ants, society may be fooled into believing there is not a very disparate treatment of individuals based on race or class. Papke, *Conventional Wisdom*, *supra* note 39, at 488. Some portrayals garner downright disgust, particularly when the portrayal also raises issues of social concern such as feminism:

[Clair Huxtable is] supposed to be a hot-shot lawyer, but when does this woman work? Ever seen Clair buried under legal briefs? Ever heard her discuss the latest judicial appointment? Wondered why she has so much time to banter with her family? It's because her career is a prop, like the refrigerator and the bed, only it's used less often.

Cynthia Crossen, *Hall of Shame; Stereotypes and Working Women*, *WORKING WOMAN*, Nov. 1991, at 119.

41. This Article, in fact, is part of a growing body of scholarship focused on the symbiotic relationship between popular culture and the law:

Those who write in this field believe that the public learns most of what it thinks it knows about law, lawyers and the legal system from the works of popular legal culture. They believe that information or misinformation gleaned from popular culture has significant impact on "law" in the legal realist sense: what judges, jurors, attorneys, legislators, voters, and ordinary consumers or producers actually do in their contracting, fact-finding, law-applying, and law-making functions. They are convinced that popular culture mirrors, often in exaggerated and caricatured form, actual popular attitudes and beliefs about the institutions and characters that it describes.

Asimow, *Embodiment of Evil*, *supra* note 3, at 1341.

42. Sherwin, *supra* note 4.

43. *Id.* at 4; see also John Denvir, *Introduction*, in *LEGAL REELISM*, xi, xvi (John Denvir ed., University of Illinois Press 1996) ("Movies often uncover aspects of law that traditional legal sources deny; but film not only 'reveals' law, it often creates the social reality to which legal institutions adapt. Therefore, film must be more than a tool of critique; sometimes it must also be its object.").

44. Paul R. Joseph, *Saying Goodbye to Ally McBeal*, 25 U. ARK. LITTLE ROCK L. REV. 459, 463 (2003); see also Friedman, *supra* note 3, at 1579 ("[L]egal and popular culture, as images of each other, help explicate and illuminate their respective contents.").

45. Joseph, *supra* note 44, at 461.

46. *Id.* at 463.

Viewers “expect some fundamental resonance with their understanding” of the law, and television writers oblige by giving the audience “a diet of what the audience already believes to be true.”⁴⁷ When the show presents new information or a new premise, the audience accepts it as true because it conforms to the already-accepted version of the legal process.⁴⁸ Access to celluloid law and its processes essentially creates a “benchmark trial” in our collective conscious through which all actual legal issues will be filtered. The benchmark of what viewers see on television and in movies *becomes* the legal process because it is the image that viewers understand. Each new portrayal is a brick in the foundation of the layperson’s understanding of how the law works. The “portrayed reality” created by the depiction works in its own self-fulfilling loop; we see what we believe to be true because it is what we already believe to be true.⁴⁹ The law can be analogized to popular culture itself: just as a new pop song cannot be heard “for the ‘first’ time” in the absence of what we know from similar songs, a trial or other legal proceeding, be it in popular culture or in reality, cannot be viewed in the absence of what we know of the law.⁵⁰ As Woodrow Wilson stated when he viewed the first motion picture, *The Birth of a Nation*, “[i]t is like writing history with lighting.”⁵¹ Once a film or television show is viewed, its message becomes ingrained in our collective psyche, which, in turn, becomes our basis for reality—even if the message itself was inaccurate.⁵²

The legal-realist theory applies equally to the actual creators of the law, both legislators and judges. Legal realists believe these individuals are influenced by their social backgrounds (including media-created percep-

47. *Id.* at 462-63.

48. *Id.* at 463; *see also* Asimow, *Bad Lawyers*, *supra* note 5, at 552 (“These images and emotional responses persist in memory long after the plot details are forgotten. The portrayals create knowledge and reality.”); Christine Alice Corcos, *Legal Fictions: Irony, Storytelling, Truth, and Justice in the Modern Courtroom Drama*, 25 U. ARK. LITTLE ROCK L. REV. 503, 509 (2003) (“[T]hese dramas must first establish a common language that includes generally accepted images and opinions about the law and lawyers, before they can lead observers down the garden path of their ironic interpretations.”).

49. “[T]he reality that counts most is the one already in the prospect’s mind.” SHERWIN, *supra* note 4, at 24 (citing AL RIES & JACK TROUT, *POSITIONING: THE BATTLE FOR YOUR MIND* (1986)).

50. Papke, *Conventional Wisdom*, *supra* note 39, at 472 (1999); *see also* Papke, *Law*, *supra* note 1; Papke, *Courtroom*, *supra* note 39, at 921.

51. Russell, *supra* note 2, at 172 (analyzing how racism and stereotypes have been perpetuated through their portrayals in the media).

52. “In many cases people aren’t aware of how they acquired the information they’ve packaged into a heuristic judgment; thus they fail to consider that the information was drawn from fictitious material.” Asimow, *Bad Lawyers*, *supra* note 5, at 555; *see also* Terry Wilson, *Celluloid Sovereignty: Hollywood’s “History” of Native Americans*, in *LEGAL REELISM* 199, 200 (John Denvir ed., 1996) (noting the effect of movie preconceptions on perceptions of Native Americans: “Generations of Americans, native and non-native alike, have been vastly influenced by the movie-made Indian. Not a few citizens have received their basic understanding of Native Americans almost exclusively from images cast by Hollywood. . . . People act toward one another according to their perceptions, not realities.”).

tions) as much, if not more, than by the black-letter law itself.⁵³ These social backgrounds may also be the basis for drafting laws. According to commonly accepted principles of statutory construction, legislative history can be an acceptable means of ascertaining the legislative intent behind an ambiguous statute.⁵⁴ In some instances, such as Establishment Clause cases, legislative purpose or motivation is the deciding factor in determining whether a law is constitutional.⁵⁵ If a law is passed to endorse or proselytize individual legislators' religious views, that law may be deemed unconstitutional. Thus, the law itself recognizes that legislative decisions can and are influenced by individual legislators' backgrounds, personal experiences, and moral or religious beliefs.⁵⁶ Both the formation of the black-letter law and its constitutionality hinge on the legislator's preconceived beliefs—beliefs pop-culture legal realists believe are formed in no small part by media influences.⁵⁷

Similarly, judges formulate or interpret the law, in part, based on external forces. Since the 1920s, the legal-realist movement has taught that judicial opinion is composed of more than mere interpretations of what judges find in statutes and codes.⁵⁸ Instead, judges assimilate the same information from newspapers, books, television, and movies that the rest of society sees. And in turn, they use that information, coupled with their own personal beliefs, to make decisions. Often this "external" influence is obvious. For example, judges today turn to secondary sources such as accounting, social science, foreign affairs, psychology, and other disciplines as support for their opinions.⁵⁹ These sources provide firm ground

53. Thomas L. Hafemeister & Gary B. Melton, *The Impact of Social Science Research on the Judiciary*, in REFORMING THE LAW: IMPACT OF CHILD DEVELOPMENT RESEARCH 27, 30 (Gary B. Melton ed., 1987).

54. See, e.g., *Lamie v. United States Tr.*, 540 U.S. 526, 538-39 (2004).

55. See generally Scott W. Breedlove & Victoria S. Salzmann, *The Devil Made Me Do It: The Irrelevance of Legislative Motivation Under the Establishment Clause*, 53 BAYLOR L. REV. 419 (2001) (arguing that recent Supreme Court opinions have confused the motive/purpose distinction under the *Lemon* test and have erroneously eroded religious truth as a legitimate basis for decision-making).

56. *Id.* at 447-49.

57. See Asimow, *Embodiment of Evil*, *supra* note 3, at 1341.

58. Hafemeister & Melton, *supra* note 53, at 30-31.

59. *Id.* at 34-35. Secondary sources can be divided into two types: legal and non-legal. *Id.* First, courts began to rely on legal secondary sources, or law reviews, as authority. For instance, commentators have tracked the increase in law review citations throughout U.S. Supreme Court cases, finding significant increases. Wes Daniels, "Far Beyond the Law Reports:" *Secondary Source Citations in the United States Supreme Court opinions October terms 1900, 1940, and 1978*, 76 LAW LIBR. J. 1-47 (1983) (noting while only one case in 1900 cited a law review article, by 1978, nearly sixty percent of Supreme Court cases relied on such authority). *But see* David Hricik & Victoria S. Salzmann, *Why There Should be Fewer Articles Like this One: Law Professors Should Write More for Legal Decision-makers and Less for Themselves*, 39 SUFFOLK U. L. REV. (forthcoming May 2005) (surveying every United States Supreme Court opinion from the 2003-2004 term and finding only 3% of the 3,998 citations were to law review articles). Second, other disciplines, including "accounting, anthropology, business, foreign affairs, history, insurance, optometry, political science, psychiatry, psychology, and sociology," have begun to appear with equal regularity in Supreme Court opinions. Hafemeister & Melton, *supra* note 53, at 35. *But see* Hricik & Salzmann, *supra*, (finding that only 18% of all citations in the 2003-04 United States Supreme Court opinions were to any secondary authority). These changes "coincided with

in the absence of established legal precedents.⁶⁰ As a result, the law itself consists of “variant principles shaped by social needs and not of hard rules applicable through purely formal logic.”⁶¹ And necessarily so, for the law cannot be a living, ever-changing reflection of society’s ideals if its crafters cannot reinterpret legal principles to serve justice today. Pop-culture legal realists believe that, because television shapes and influences personal ideologies, and that those personal beliefs, in turn, influence legal decision-making, popular culture references have a significant affect on the law.⁶² Judges and legislators are influenced just as other television viewers are because they are simply people bringing their own personal perspective to the bar.

Legal realists believe that the analysis of popular culture can actually influence legal theory. For example, celluloid images can shed light on constitutional theory, despite the constitutional scholars’ pride that the field is “the most rigorous of intellectual pursuits.”⁶³ Both are intellectual analyses into various social issues, though one focuses on appealing to viewers while the other seeks legal solutions to concrete problems.⁶⁴ Movies are often designed to tell stories for entertainment, but those stories are derived from reality.⁶⁵ Much like an ancient fable still provides a basis for moral lessons, modern movies and television provide examples of social issues that otherwise might not have any impact. “[F]ilm can reorient [legal] theory to attend to problems that its abstract categories have ignored.”⁶⁶

There is support for this theory in actual court opinions. Popular culture references are starting to appear in case opinions just as literary references once abounded. For example, John Grisham’s novels have become integrated into the actual courtroom.⁶⁷ Not only is Grisham’s work referenced in legal opinions,⁶⁸ but some cases have actually hinged

postrealist expansion in legal doctrines” and have become the norm in most legal opinions. *Id.* at 38.

60. Hafemeister & Melton, *supra* note 53, at 38.

61. *Id.* at 28.

62. See Asimow, *Embodiment of Evil*, *supra* note 3, at 1341.

63. John Denvir, *Capra’s Constitution*, in *LEGAL REELISM* 118, 118 (John Denvir ed., 1996).

64. *Id.* (comparing Chief Justice Rehnquist’s opinion about state duty to the movie *IT’S A WONDERFUL LIFE* (RKO Pictures, Inc. 1946) to “enlarge our perspective on the same case”).

65. *Id.* at 122.

66. *Id.*

67. John B. Owens, *Grisham’s Legal Tales: A Moral Compass for the Young Lawyer*, 48 *UCLA L. REV.* 1431, 1433 (2001).

68. See, e.g., *Campbell v. Citizens for an Honest Gov’t, Inc.*, 255 F.3d 560, 563 (8th Cir. 2001) (“The record in this case reads like a John Grisham novel. However, unlike *THE PELICAN BRIEF* (Warner Brothers 1993) or *THE FIRM* (Paramount Pictures 1993), here the lines between fact and fiction are blurred.”); *Figueroa v. Rivera*, 147 F.3d 77, 79 (1st Cir. 1998) (“If recited here in full flower, the averments in the complaint would seem to have been lifted from the pages of a John Grisham thriller.”); *Recreational Devs. of Phoenix, Inc. v. City of Phoenix*, 83 F. Supp. 2d 1072, 1086 (D. Ariz. 1999) (“As the Fifth Circuit noted in response to hypothetical overbreadth arguments, ‘[if] John Grisham reads one of his novels in the nude . . . courts can evaluate whether these activities fall within the scope

on the use of Grisham's works at trial.⁶⁹ In *State v. Saez*, the court held that references to Grisham during closing argument did not constitute reversible error.⁷⁰ And, in *United States v. Sabbagh*, the defendants used Grisham's novel *The Firm* to argue that trial counsel had a conflict of interest.⁷¹ Even more interesting are the instances when courts have actually adopted Grisham's language to explain a legal concept. For example, in *Herring v. Bocquet*, a Texas Court of Appeals quoted an entire paragraph from *The Rainmaker* to explain the art of over-billing.⁷² Several other cases have referred to *The Rainmaker*'s plot "when discussing the distasteful reimbursement policies of certain insurance companies,"⁷³ or to *The Runaway Jury* when describing the particularities of tobacco litigation.⁷⁴

In a similar vein, media influences impact the way lawyers themselves behave within the system. Lawyers have recognized the shift in communication toward visual representations and have begun to employ related

of the exception."); *United States v. Kouri-Perez*, 992 F. Supp. 511, 512 (D.P.R. 1997) ("[The] motion builds on the quicksands of distortion to present a portrait of deviousness that recalls a John Grisham novel, rather than the facts of this case."); *Burge v. Parish of St. Tammany*, No. 91-2321, 1997 U.S. Dist. LEXIS 114, at *4 (E.D. La. Jan 8, 1997) ("The relevant, material facts bear some resemblance to a John Grisham novel . . ."); *Krieger v. Adler, Kaplan & Begy*, No. 94 C 7809, 1996 U.S. Dist. LEXIS 113, at *1 (N.D. Ill. Jan 4, 1996) ("Finding that Krieger's complaint read more like a John Grisham novel than an acceptable initial pleading, the court dismissed the complaint with leave to refile."); *Kirchoff v. Selby*, 686 N.E.2d 121, 123, 123 n.1 (Ind. Ct. App. 1997) ("The John Grisham-like facts in this appeal are very much in dispute . . . Undoubtedly, the parties were referring to noted attorney/author John Grisham, whose numerous books have involved issues of legal intrigue and deception.").

69. Owens, *supra* note 67, at 1433.

70. 758 A.2d 894, 897 (Conn. App. Ct. 2000).

71. 98 F. Supp. 2d 680, 685 n.5 (D. Md. 2000) ("[The Plaintiff's] brief repeatedly labels their partnership 'The Firm,' apparently a reference to the John Grisham book and film by the same name about a corrupt law firm which launders money for organized crime and will do just about anything for a fee regardless of legality or ethics. If such innuendo is intended, it is not appropriate, and will be disregarded.").

72. 933 S.W.2d 611, 614 (Tex. Ct. App.—San Antonio 1996), *rev'd*, *Bouquet v. Herring*, 972 S.W.2d 19 (Tex. 1998) (quoting extensively from chapter one of *The Rainmaker* and noting "Grisham's quote implies potential abuse of conferences, and no doubt it happens").

73. See, e.g., *Vining v. Enter. Fin. Group, Inc.*, 148 F.3d 1206, 1212 n.4 (10th Cir. 1998) ("Enterprise's rescission conduct and loss ratios bear some resemblance to those of the fictional insurance company portrayed in John Grisham's novel *The Rainmaker* and in the motion picture of the same name."); *Charles J. Vacanti, M.D., Inc. v. State Comp. Ins. Fund*, 14 P.3d 234, 241-42 (Cal. 2001) ("Reminiscent of the methods used by Great Benefit Insurance Company, the villain in the John Grisham thriller, *The Rainmaker*, defendants developed procedures for delaying or avoiding payment to plaintiffs using 'false, fraudulent and frivolous objections.'" (citations omitted)).

74. *Cantley v. Lorillard Tobacco Co.*, 681 So. 2d 1057, 1059 n.2 (Ala. 1996) ("This opinion deals with a subject of great current interest, both in fact, . . . and in fiction (see, e.g., John Grisham, *THE RUNAWAY JURY* (Doubleday, June 1996)."); see also *Luckett v. Panos*, 2002 WL 80640, at *2 n.2 (Cal. App. 4 Dist. Jan. 22, 2002) (noting the use of Ally McBeal references in pleadings filed below); Amendments to Rules Regulating The Florida Bar—Advertising Rules, 762 So. 2d 392, 406 (Fla. 1999) (noting that though the court could not "control the content of television programs such as *Judge Judy* and *Ally McBeal*," it did have the authority to regulate its practicing attorneys); *State v. Papasavvas*, 751 A.2d 40, 53 (N.J. 2000) ("[O]ne [juror] who watched the series *Ally McBeal* observed that 'lawyers looked better on TV.'").

techniques as persuasive tools.⁷⁵ Also, lawyers are becoming more savvy about the way the media portrays their clients. For example, during the notorious Menendez brothers' trial, defense attorney Leslie Abramson fought CBS and Fox Television over their portrayals of her clients.⁷⁶ Prior to the brothers' re-trial, the two stations intended to show fictitious dramas of the brothers' story.⁷⁷ The portrayals, however, did not correspond to the defense theory.⁷⁸ Understanding the impact that these portrayals could have on jurors unable to separate fact from fiction, Abramson threatened to have Erik Menendez give a live interview on a rival network during the same programming slot.⁷⁹ Her application of pressure to CBS and Fox Television was simply an attempt to put the lid on the overwhelmingly persuasive visual image that cut against the defense strategy. Unfortunately for the Menendez brothers and for other notorious criminals, their sensational trials are exactly the sort of pulp-legal fodder that television producers use.⁸⁰ Pop-culture legal realists believe these examples show that popular culture can and does have real effects on the law and its processes.

III. PORTRAYAL OF LAW IN POPULAR CULTURE

A. TRADITIONAL THEMES

Numerous articles have been written concerning the portrayal of law, courts, trials, judges, attorneys, and even parties in popular culture.⁸¹ Particularly on television and film, the law has provided ample fodder for both the large and small screen. At the outset, it is important to note that the vast majority of television and film depictions focus on litigation attorneys and trials.⁸² These portrayals are not surprising considering

75. Sherwin, *supra* note 4, at 7 ("The shift in communication practices toward visual representations, including videos, computer-based animations, and reenactments, also reflects the growing influence of the visual mass media on the way trial lawyers represent their clients' interests.")

76. *Id.* at 150.

77. *Id.*

78. *Id.*

79. *Id.*

80. The same sort of docudrama appeared prior to the conclusion of the recent Scott Peterson case, painting Scott Peterson in a very unflattering light and introducing a wealth of incriminating evidence against him. Similarly, when Charlton Heston elected to appear in *Dynasty II* rather than run for the Senate, one commentator noted that the decision was actually a political one. Anthony Chase, *Toward a Legal Theory of Popular Culture*, 1986 *Wis. L. REV.* 527, 534 (1986). He figured Heston realized "[i]t would be more useful to his Presidential bid to be seen on television every week than to be buried for two years in the Senate." *Id.* (quoting Neil Postman, *President Heston*, 241 *NATION* 300 (1985)). Such is the power of television.

81. See, e.g., Papke, *Conventional Wisdom*, *supra* note 39; see also Norman Rosenberg, *Looking for Law in All the Old Traces: The Movies of Classical Hollywood, The Law, and the Case(s) of Film Noir*, 48 *UCLA L. REV.* 1443, 1449 (2001) (noting that legal images make films more "pleasurable product[s]" and hence, more profitable, and that representations of the law can often overcome problems with the plot's narrative) [hereinafter Rosenberg, *Looking for Law*].

82. Papke, *Law*, *supra* note 1, at 1477. Some would argue, however, that the movies "with little or no courtroom action are precisely the ones that offer the most interesting

"[I]tigation and trial work . . . have greater dramatic potential than the drafting of wills or the closing of real estate transactions."⁸³ And, trials "grip[] the television audience because they are the civilized equivalent of combat."⁸⁴ Trials are more exciting than anything else a lawyer does and they provide the easiest means to support a narrative.

David Ray Papke, a noted scholar on popular culture and the law, has traced the meteoric rise of the law as a subject in both television and film.⁸⁵ While the legal system has been portrayed in films since the medium's inception, it was the "golden age" of legal films in the 1950s and 1960s that created the bulk of that era's perceptions of the law.⁸⁶ Papke found that the early film industry often relied upon trials because they provided dramatic backgrounds on manageable sets, forced stories along, and brought them to conclusion.⁸⁷ Later, particularly in television, shows featuring lawyers became a vehicle to portray the gamut of human tribulations and emotions where the legal proceeding was merely an aside to the story.⁸⁸ Current television shows still display this dichotomy. For example, shows such as *Ally McBeal*,⁸⁹ *L.A. Law*,⁹⁰ *The Practice*,⁹¹ *Lyon's Den*,⁹² and *Ed*⁹³ are shows about people who just happen to be (or not, depending on the episode) practicing law. In contrast, shows such as *Law & Order*⁹⁴ and its spin-offs⁹⁵ have almost no character development of their primary cast members and instead wholly focus on each week's new

treatments of the themes of law, lawyers, and justice." Francis M. Nevins, *Through the Great Depression on Horseback: Legal Themes In Western Films of the 1930s*, in LEGAL REELISM 44, 45 (John Denvir, ed., 1996) (discussing the importance of legal themes in western films); see also Norman Rosenberg, *Law Noir*, in LEGAL REELISM 280, 300 n.22 (John Denvir ed., 1996) (noting that in popular culture and literature, "'legal' positions are constituted in a variety of non-official settings, such as a lawyer's office, and not just before official tribunals").

83. Papke, *Law*, *supra* note 1, at 1477-78.

84. Douglas E. Abrams, *Picket Fences*, in PRIME TIME LAW: FICTIONAL TELEVISION AS LEGAL NARRATIVE 129, 132 (Robert M. Jarvis & Paul R. Joseph eds., Carolina Academic Press 1998).

85. Papke, *Conventional Wisdom*, *supra* note 39, at 474-75.

86. Papke, *Law*, *supra* note 1, at 1474.

87. Papke, *Conventional Wisdom*, *supra* note 39, at 474-75.

88. Law was merely a tool to emphasize the drama around us. See GREENFIELD, *supra* note 15, at 148 (noting an hour-long show "in which the hero didn't have the power of life and death" would not survive: "[Y]ou have to give him a gun or a scalpel or a lawbook, and a jeopardy situation."). Even the "golden age" Hollywood lawyer movies were vehicles to discuss a broad group of topics. For example, 12 ANGRY MEN (Orion-Nova Productions 1957), TO KILL A MOCKINGBIRD (Brentwood Productions, Patala Mulligan 1962), and WITNESS FOR THE PROSECUTION (Edward Small Productions 1957) dealt with racism; JUDGMENT AT NUREMBERG (Roxlom 1961) attacked war crimes; and INHERIT THE WIND (United Artist 1960) discussed evolution and religious fundamentalism. Papke, *Law*, *supra* note 1, at 1481. Thus, the movies "effectively use[d] the law to explore larger questions of personal and social justice." *Id.*

89. *Ally McBeal* (Fox television series, 1997-2002).

90. *L.A. Law* (NBC television series, 1986-94).

91. *The Practice* (ABC television series, 1997-2004).

92. *Lyon's Den* (NBC television series, 2003).

93. *Ed* (NBC television series, 2000-2004).

94. *Law & Order* (NBC television series, 1990-Present).

95. *Law & Order: Criminal Intent* (NBC television series, 1999-Present); *Law & Order: Special Victim's Unit* (NBC television series, 2001-Present).

trial.⁹⁶

Papke noted that the “cavalcade” of courtroom trials in film and television has had the effect “of what cultural studies scholars call ‘naturalizing the text,’” meaning that the public takes the media-created legal proceedings for granted.⁹⁷ Most of today’s real-life litigants are probably surprised to find that their lawyers are not private investigators, trials are buried in technical formalities, witnesses appear by deposition, and few of the players, including judges, lawyers, witnesses, and the parties, make beautiful orations or pithy asides. The stereotypes created by popular culture references are many.⁹⁸ First, almost all film and television trials are set in a beautiful old mahogany-paneled courthouse with the judge sitting high on a platform above the proceedings.⁹⁹ In essence, the cinematic courtroom resembles exactly what it is—a stage on which to tell a story.¹⁰⁰ Second, cinematic characters are usually divided into specific

96. Some commentators have noted that shows like *Law & Order* and its progeny are not only devoid of character development, but the characters are secondary to the real protagonist—the law itself. Dawn Keetley, *Law & Order*, in *PRIME TIME LAW: FICTIONAL TELEVISION AS LEGAL NARRATIVE* 33 (Robert M. Jarvis & Paul R. Joseph eds., 1998) (citing Aaron Barnhart, *TV Law: “The Practice” Speaks Up for the Defense—“Law & Order” Champions the Prosecution*, KANSAS CITY STAR, March 2, 1997, at K1). There, the “process is king,” not the characters. *Id.* But see *Murder One* (ABC television series, 1995-96) (a dramatic television series focusing on the *process* of a criminal trial from crime to appeal, thus marrying the two distinct genres mentioned above); TV Tome, at <http://www.tvtome.com/tvtome/servelet/showmainservelet/showid-25938/> (noting that in 2005 the NBC *Law & Order* franchise will air a new legal drama called *Law & Order: Trial By Jury* to “provide fictional access to prosecutors, defenders, judicial chambers, the jury room and every other nook and cranny of the process”) (last visited in 2004; more information currently available at <http://www.tvtome.com/LawandOrderTrialbyJury>).

97. Papke, *Conventional Wisdom*, *supra* note 39, at 478.

98. *Id.* at 479; see generally Papke, *Law*, *supra* note 1.

99. The examples of this stereotype are endless. The courtrooms depicted in movies such as *A FEW GOOD MEN* (Castle Rock Entertainment, Columbia Pictures Corp., New Line Cinema 1992), *A TIME TO KILL* (Regency Entertainment, Warner Brothers 1996), *PHILADELPHIA* (Tri Star Pictures 1993), and *TO KILL A MOCKINGBIRD* (Brentwood Pictures, Pakula Mulligan 1962) are perfect examples. Even television shows with as little substance as *Ally McBeal* (Fox Television Series, 1997-2002) have a venerated courtroom in which to try the admittedly frivolous cases. Papke’s analysis goes much deeper than just the walls, however. He notes that the courtrooms usually contain large background doors (for grand entrances), uniformed guards, state and federal flags and decorative lighting. Papke, *Conventional Wisdom*, *supra* note 39, at 479-80; Papke, *Law*, *supra* note 1, at 1478; Papke, *Courtroom*, *supra* note 39, at 921. And, breaking down that stereotype even further, he notes that directors often use the courtroom appearance to depict particular regions of the country. Papke, *Conventional Wisdom*, *supra* note 39, at 479-80; Papke, *Law*, *supra* note 1, at 1478; Papke *Courtroom*, *supra* note 39, at 921-22. Thus, southern courtrooms appear without air-conditioning, but full of hand-held fans, and west-coast courtrooms appear more streamline to suggest a “faster, leaner legal process.” Papke, *Conventional Wisdom*, *supra* note 39, at 480. John Brigham also noted the shift on television from the antique Victorian courtrooms of the early nineteenth century to the stark modern courtrooms featured in *L.A. Law* and attributed this shift to the lack of video coverage in historical courtrooms such as the Supreme Court. Brigham, *supra* note 8, at 1176-79. In other words, what viewers are not allowed to see in real life may become a thing of the past in popular culture. See also Slotnick, *supra* note 35, at 22 (noting that the effects of popular culture misconceptions are exacerbated with reference to the Supreme Court “because of the Court’s isolation and relative public invisibility”).

100. This stage is especially important if the message to be conveyed is a legal one. Paul R. Joseph noted that “[b]ecause people are more likely to look for legal messages in a

stereotypical roles.¹⁰¹ Judges, jurors and witnesses all play one-dimensional bit parts unless the plot revolves around that particular individual.¹⁰² More often than not, the viewer is placed in the role of the jury to “sort out” the plot.¹⁰³ The attorneys, on the other hand, are cast as the heroes and villains of the shows.¹⁰⁴ Third, the plots of the shows are all remarkably similar. The attorneys present introductory opening statements, the trial proceeds to the “examination stage” where the audience is handed bits of information, the attorneys piece the puzzle together in their brilliant closing arguments, the litigants and audience take a collective breath (or commercial break) while the jury deliberates, and finally, the verdict is announced to cheers or tears.¹⁰⁵ This process has been so ingrained in viewer’s perceptions of the law “that most of us have a visual literacy that allows the easy management of [shows depicting multiple trials in various stages, all appearing simultaneously].”¹⁰⁶ And even more importantly, these depictions have actually become such a foundation for public perception of the law that many television shows now devote more time to board meetings than courtrooms and just assume that the viewer understands the trials the characters discuss.¹⁰⁷

show that looks ‘legal,’ the more explicit the legal setting, the more likely the show is to transmit messages about the law and legal system.” Joseph, *supra* note 44, at 464. In short, if the writer wants to convey a legal message as efficiently as possible, all he needs do is set the message in the most legal setting he can and the viewers will take care to understand the message.

101. Papke, *Conventional Wisdom*, *supra* note 39, at 481.

102. *Id.*; see also Papke, *Courtroom*, *supra* note 39, at 922. For example, movies such as *SUSPECT* (ML Delphi Premier Productions 1987), *RUNAWAY JURY* (New Regency Pictures, Epsilon Motion Pictures 2003), *TRIAL BY JURY* (Morgan Creek Productions 1994), and *THE JUROR* (Columbia Pictures Corp. 1996) all revolve around the jury members in a particular trial.

103. Papke, *Conventional Wisdom*, *supra* note 39, at 481; Papke, *Courtroom*, *supra* note 39, at 922-23.

104. Papke, *Conventional Wisdom*, *supra* note 39, at 482. Particularly in the fifties and sixties, lawyers are portrayed as “men of integrity committed to deserving clients.” Papke, *Law*, *supra* note 1, at 1475. “In addition to being physically attractive, the Hollywood attorneys are articulate, forceful, and principled. Their appeal, in other words, derives from their character as much as their handsomeness.” *Id.* at 1476. More recent films depicting lawyers divide them into two groups: the noble solo-practitioner and the “miserable, bigoted, materialistic” big-firm lawyer. Asimow, *Embodiment of Evil*, *supra* note 3, at 1341. The dichotomy in portrayal mirrors changes in the legal community. Early films focused on solo-practitioners in small towns because a great deal of the legal profession practiced that way. In contrast, through the eighties and nineties, law firms became big business where making money is the primary goal. *Id.* at 1363-69. Thus, the portrayal of David-like solo-practitioners, law students, and professors facing off against Goliath-like law firms has become the norm and is merely a reflection of the realities of practicing law. *Id.*; see also Michael M. Epstein, *From Willy to Perry Mason: The Hegemony of the Lawyer Statesman in 1950s Television*, 53 SYRACUSE L. REV. 1201 (2003) (discussing the stereotypical lawyer of the 1950s).

105. Papke, *Conventional Wisdom*, *supra* note 39, at 485-86; Papke, *Law*, *supra* note 1, at 1479.

106. Papke, *Conventional Wisdom*, *supra* note 39, at 486.

107. For example, shows such as *L.A. Law* and *Ally McBeal* focus more on the love-lives and incomes of the characters and use trials only as a foundation for the action. In these shows, the viewer does not need to see any trial from beginning to end. But without the ingrained stereotype of the trial, the romance storylines would make no sense to the viewer.

These stereotypes, however, have very little to do with the reality of the legal process. Real cases rarely go to trial, criminal defendants are almost always convicted or accept a plea bargain, witnesses rarely break down on the stand, and courtrooms are run by the judges, not the litigants.¹⁰⁸ This departure from reality is critical to the success of lawyer programming, however. "Courtroom drama . . . remains popular on television because Americans are fascinated by what lawyers do, or at least by what dramatic programming generally has portrayed them doing. The portrayal has not been, and could not be, thoroughly faithful to the realities of contemporary law practice."¹⁰⁹ Mass media produces images of attorneys engaged in the most dynamic and conflicted of situations because these portrayals generate the largest audience.¹¹⁰ And, the dramatic vehicle is not limited to fictitious trials—even the real trials portrayed on television distort the process of law.¹¹¹ For example, Court TV, the network allegedly created to give the viewer access to real trials and "justice without scripts," airs a disproportionately large number of cases that will titillate the public: murder trials, sex crimes and celebrity disputes.¹¹² Thus, while Court TV may be more realistic than a television show like *The Practice*, it remains a network competing against shows such as *Jerry Springer*, and therefore, must have some salacious or at least engaging hook for the typical viewer. The result is that the viewer becomes conditioned to the violence depicted in these "real-life" trials, which in turn impacts how that viewer views justice in the legal system.¹¹³ Thus, even the most realistic of attorney portrayals differs significantly from the realities of actual legal practice.

B. DAY-TO-DAY LAWYERING

To test the pop-culture legal realists' theory that popular culture shapes perceptions of the law and the legal process itself, we explored a single aspect of attorney portrayals in television: a lawyer's usual daily activities.

A striking absence in popular culture's law is the portrayal of what lawyers do on a daily basis. While most lawyers on television or in mov-

108. Papke, *Conventional Wisdom*, *supra* note 39, at 487; Papke, *Courtroom*, *supra* note 39, at 926-29. There is a limit to how far-fetched the legal drama may be, however. One commentator noted that, while "Hollywood movies represent things legal through a very different type of professional practice . . . than law professors, legal advisors, courtroom litigators, or judges," they "cannot represent legal procedure in ways that seem entirely incorrect or implausible." Rosenberg, *Looking For Law*, *supra* note 81, at 1448. Or, at least, it cannot be significantly different from what the viewer has already seen on television and expects to be the correct process of the law.

109. Abrams, *supra* note 84, at 141.

110. Sherwin, *supra* note 4, at 163.

111. *Id.*

112. *Id.*

113. *Id.* at 163-64. Sherwin analogizes this phenomenon to portrayals of police brutality. *Id.* He notes that when criminals are continuously portrayed as predatory and villainous, society's fear of the predatory unknown becomes the norm. *Id.* Then, when police engage in inappropriate conduct such as shooting an unarmed suspect or illegally eliciting a confession, their transgressions are forgiven because they are the barrier between the public and the hypothetical predatory criminals. *Id.*

ies play the archetypal hero, villain, or bit player, these actors are nearly uniformly portrayed in dynamic roles that involve investigating cases, strategizing, meeting with clients, and appearing in court.¹¹⁴ Rarely is an attorney seen actually toiling away at her desk researching the law, reviewing documents, drafting discovery requests or pleadings, or simply reviewing the case.¹¹⁵ For example, the lawyer on television frequently have bookcases filled with legal tomes, but they have rarely read cases, check citations, or draft memos.¹¹⁶ Such activities would provide little opportunity for plot development or dramatic license, and the true goal of television is to entertain, not to educate the general public about the practice of law.¹¹⁷ Yet, those activities comprise the daily life of most real lawyers.

In 1993, Bryant G. Garth and Joanne Martin conducted a survey of Chicago practicing attorneys to determine what skills attorneys felt were critical to the practice of law.¹¹⁸ In the survey, attorneys were asked to rate seventeen different activities by their importance.¹¹⁹ Of the five most important activities, two involved "paper-lawyering:" written communication, and drafting legal documents.¹²⁰ Over 96% of young Chicago lawyers felt written communication was important (81.4% felt it was extremely important), and over 84% felt drafting legal documents was important (51% deemed it extremely important).¹²¹ Thus, the majority

114. See Papke, *Convention Wisdom*, *supra* 39, at 481-88.

115. "A lawyer's boring afternoons reading deposition transcripts and scribing closing documents is largely discarded as the dramatically uninteresting chaff of a lawyer's existence." Charles B. Rosenberg, *An L.A. Lawyer Replies*, 98 *YALE L.J.* 1625, 1626 (1989); see also Charles B. Rosenberg, *Inside "L.A. Law,"* 74 *A.B.A. J.* Nov. 1988, at 56 (noting that lawyers on the show do not do any transactional work because it is "dramatically deadly").

116. See, e.g., Abrams, *supra* note 84, at 142 (noting "no one ever reported cracking a *Shepard's* volume or otherwise engaging in legal research" in *Picket Fences*); Rod Carveth, *Soap Operas*, in *PRIME TIME LAW: FICTIONAL TELEVISION AS LEGAL NARRATIVE* 181, 187 (Robert M. Jarvis & Paul R. Joseph eds., 1998) (finding that even in soap operas, which run more than 200 episodes per year, many for fifty years or more, "such mundane lawyer tasks as taking a deposition, conducting legal research, or writing a brief are de-emphasized," probably because seeing repeated close-ups is more exciting than the every day life of an attorney).

117. Abrams, *supra* note 84, at 142. "Law practice necessarily bears little resemblance to the unstinting adrenaline rushes that have dominated television drama for decades because tedium and petty annoyances pass unseen when days, weeks, or even months are compressed into an hour on the screen." *Id.*

118. Bryant G. Garth & Joanne Martin, *Law Schools and the Construction of Competence*, 43 *J. LEGAL EDUC.* 469, 470 (1993).

119. *Id.* at 472.

120. *Id.* at 473.

121. *Id.* at 473. Legal research, another type of paper-lawyering, did not rank as highly. Less than 60% of the young lawyers felt this skill was important and less than 18% felt it was extremely important. *Id.* Library research ranked fifteenth on the list of critical skills, and computer research ranked last. *Id.*; see also Arthur Austin, *One Person's Challenge is Someone Else's Stress*, 3 *TEX. REV. L. & POL.* 157 (1998) (book review); Douglas E. Litowitz, *Young Lawyers and Alienation: A Look at the Legal Proletariat*, 84 *ILL. B.J.* 144, 146-47 (1996) (noting that most young lawyers spend the majority of their time engaging in research, writing, and discovery). The authors also noted that these numbers correspond to areas of practice. Garth & Martin, *supra* note 118, at 474.

of lawyers responding to the survey ranked “paper-lawyering” critically important to their practice, presumably because they use those skills often.¹²² Likewise, scholars have noted that the modern lawyer is more scribe than orator, spending the bulk of his time “completing tedious research assignments, requesting and producing documents, performing ‘due diligence’ on transactions, and redrafting or redlining form clauses and provisions contained in the endlessly churning pages issuing from overly productive fax machines, computers, printers and photocopy machines.”¹²³

Literary works are much more likely to display the tedious nature of law-firm practice, perhaps due to their increased length and room for additional character development.¹²⁴ For example, in John Grisham’s

122. While most sources and this author’s own experience indicate that practicing attorneys spend huge quantities of their time drafting discovery, researching issues, preparing pleadings, or preparing for depositions (which also involves a great amount of paper-lawyering), at least one study suggests otherwise. In Thomas A. DeCotiis and Walter W. Steele, Jr.’s survey *The Skills of the Lawyering Process: A Critique Based on Observation*, the researchers found that “most lawyers do very little reading, except for proofreading.” 40 TEX. B. J. 483, 494 (1977). In that study, the researchers noted that while law school curriculums were being revamped, very little information had been gathered about what skills practitioners actually used. *Id.* at 483. The researchers decided to observe twenty-five attorneys considered by their peers to be “good general practitioners” practicing in firms with five or fewer attorneys. *Id.* at 485-86. The researchers found that “though legal documents are an essential part of any law practice,” these selected attorneys spent very little time or effort preparing them. *Id.* at 489. Thus, the researchers concluded that writing and research were not as critical to the profession as other skills such as negotiation. *Id.* at 494. We believe those results are atypical, and not the norm. First, the research was conducted in 1977, a time when much litigation was held without any real discovery and litigators entered the courtroom without the blizzard of documents that are the common practice now. For example, some states only began requiring extensive discovery practice in the late ninties, and it is this new practice that generates the majority of paperwork so common today. Second, the researchers conceded the observed attorneys were not typical. *Id.* at 493. They were selected by reputation as being good general practioners, indicating with all likelihood that they had been practicing for long enough to build a solid reputation. Seasoned attorneys, unlike newer attorneys, will necessarily spend less time drafting and researching issues that they have already been dealing with for years. Third, by the researchers’ own admission, these attorneys spent no time researching because it was “prohibitively costly to [small-firm] clients, and perhaps more important, any such research [was] most often done by clerks or junior associates.” *Id.* at 492. Thus, the study focused primarily on seasoned small-firm attorneys representing poorer clients in simple cases, rather than on large-firm attorneys representing complex litigants involved with major lawsuits. Because “there may be large differences in skill usages and priorities between types of practice,” the small-town practitioner model may not represent the typical legal practice. *Id.* at 484; see also DAVID CRUMP ET AL., PROPERTY: CASES, DOCUMENTS, AND LAWYERING STRATEGIES 87 (LEXIS NEXIS 2004) (noting that DeCotiis and Steele’s survey indicates legal documents are functional rather than expository and expressing incredulity at the idea that paper lawyering is an insignificant part of lawyering: “Reading, Writing, and Research: Very Little(!)” (emphasis in original)).

123. Carrie Menkel-Meadow, *The Sense and Sensibilities of Lawyers: Lawyering in Literature, Narratives, Film and Television, and Ethical Choices Regarding Career and Craft*, 31 MCGEORGE L. REV. 1, 8 (1999) (comparing modern attorneys to the scribe, rather than the attorney, in Herman Melville’s short story *Bartleby the Scrivener*).

124. See Carrie Menkel-Meadow, *Can They Do That? The Legal Ethics in Popular Culture: Of Characters and Acts*, 48 UCLA L. REV. 1305, 1308-09 (2001) (noting that novels allow for full character development while movies “focus more on acts and discrete plot turns”).

novel, *The Firm*, between escaping the mob, meeting the FBI, avoiding hit-men, and cheating on his wife, Mitch McDeere does manage to make it to the office at 4:00 a.m. to draft boring legal documents and study for the bar exam.¹²⁵ Likewise, in *Double Billing: A Young Lawyer's Tale of Greed, Sex, Lies, and the Pursuit of a Swivel Chair*, Cameron Stracher described life in a hypothetical large New York law firm, including crushing document productions and mind-numbing research.¹²⁶ Stracher's novel was more expose than fictional account. In it, he laments that attorneys' lives are very different from the stereotype:

There was no course called Document Production at Harvard. No one explained "Bates stamping" or making multiple copies or reproducing file labels or sitting in a warehouse sweating your ass off. It turns out you'll spend the greater part of your associate life producing documents, reviewing documents, arguing about documents, but no one has bothered to train you in the art of copying and refileing documents or the intricacies of making multiple replicate folders.¹²⁷

. . . .
[T]he summer associate doesn't want to know that I am a research drone, a document-production clerk, *that goes without saying*. No law student between her second and third year thinks she's going to be arguing the merits of a case in front of a federal judge. She knows that her early years at a big firm will consist of exactly what I have been doing: research, research, and document production.¹²⁸

Stracher's fictionalization is interesting in that the tedium and mind-numbing "paper-lawyering" of modern practice become the villain in the story. Stracher longed to "be in the emergency room with the gunshot victims" instead of in "a cubicle filling out paperwork,"¹²⁹ and he noted that even the most interesting moments of practice were "lost in a mountain of papers and tilting at windmills."¹³⁰ This account, though fictional, is consistent with the reality of much of law practice.¹³¹ Yet, while his book is accurate, it is not likely to make it to the big screen anytime soon. Instead, celluloid attorneys engage only in exciting lawyering that can translate to action.

For example, "all the dogged preparation that precedes trial" is usually missing from its popular-culture version.¹³² In "*L.A. Law*, attorneys often informed colleagues in a firm conference that they had a major trial

125. John Grisham, *The Firm* (1991).

126. Cameron Stracher, *Double Billing* (1998); see also WILLIAM R. KEATES, *PROCEED WITH CAUTION: A DIARY OF THE FIRST YEAR AT ONE OF AMERICA'S LARGEST, MOST PRESTIGIOUS LAW FIRMS* (1997) (noting that most junior-level associates spend thousands of hours researching the law, drafting pleadings, and reviewing documents).

127. Stracher, *supra* note 126, at 130.

128. *Id.* at 140; see also *id.* at 195 ("A lawyer should be arguing the merits of his case, not grappling with documents in the back of a warehouse or researching procedure in the library.").

129. *Id.* at 213.

130. *Id.* at 201.

131. See, e.g., Austin, *supra* note 121, at 167; Litowitz, *supra* note 121, at 144.

132. Papke, *Courtroom*, *supra* note 39, at 924.

starting the next day or perhaps even the same afternoon. Without apparent preparation, the attorneys then sashayed confidently into the courtroom."¹³³ Rather than depicting hours explaining the trial preparation and research necessary to actually go to trial, the characters know "relevant case law and statutes, thanks to a lawyer-screenwriter who ha[s] done his homework."¹³⁴ On television and in the movies, this lack of preparation, or "fly by the seat of one's pants" trial strategy is the norm, rather than the exception.

That is not to say that drafting, researching, and discovery (the nuts and bolts of litigation practice) are wholly ignored. If the plot can be advanced with these actions, they take center stage. For example, in the movie *Class Action*, Mary-Elizabeth Mastrantonio plays a big-firm associate trying a products-liability lawsuit against her own father's client.¹³⁵ During the course of the litigation, she engages in unethical discovery practices to hide her client's liability.¹³⁶ Mastrantonio and her lover, the senior partner on the case, bury the "smoking gun" documents in a blizzard of paper close to trial in the hopes that her father's small staff cannot find it.¹³⁷ Unbeknownst to her, the senior partner actually removes the document from the discovery response.¹³⁸ Mastrantonio eventually betrays her own client and helps her father win the case.¹³⁹ She does so by yet another example of paper-lawyering—she has the senior partner at her firm sign discovery responses which innocuously include a key witness for the plaintiff.¹⁴⁰ By providing her father with this critical witness surreptitiously in her written discovery, Mastrantonio can aid him without overtly challenging the authority above her. The paper-lawyering is the crux of the film.

Likewise, in the movie *Philadelphia*, starring Tom Hanks and Denzel Washington, Hank's character is fired from his prestigious law firm because he has AIDS.¹⁴¹ The firm buries evidence of this motive, however, by destroying a key pleading that Hanks had been working on for weeks and claiming he never drafted the document.¹⁴² There, the drafting and filing of the document plays a critical part of the story's plot, and the controversy surrounding it creates the perception that big-firm lawyers are both heartless and unethical.¹⁴³

133. *Id.*; Freidman, *supra* note 3, at 1600 ("[N]one of the [L.A. Law episodes] I watched dealt with the workaday drudgery of a lawyer's life."); see also Abrams, *supra* note 84, at 142 (noting that in one episode a murder trial commenced the day after the crime and that the judge often decided complex legal issues without any research).

134. Abrams, *supra* note 84, at 142.

135. *CLASS ACTION* (Twentieth Century Fox 1990).

136. *Id.*

137. *Id.*

138. *Id.*

139. *Id.*

140. *Id.*

141. *PHILADELPHIA* (Columbia Tristar 1992).

142. *Id.*

143. *Id.* The act of researching also creates a pivotal scene in this movie. After Denzel Washington, an African-American lawyer, refuses to take Tom Hanks's case, the two meet

Some films do show the drudgery of associate life, but the portrayal most often crops up only to emphasize the negative side of the profession. For example, in the movie *From the Hip*, associate Stormy Weathers, played by Judd Nelson, is so desperate to escape the writing, research, and discovery monotony of the typical litigator, he manufactures a trial with his opposing counsel.¹⁴⁴ The gamble pays off, and Nelson is promoted to partner and given a case that puts him in way over his head, lands him in contempt of court, and gets him fired—all as the price of escaping the firm library. Likewise, in *The Young Philadelphians*¹⁴⁵ and *The Devil's Advocate*,¹⁴⁶ associates neglect their families and labor far into the night researching and preparing for trial. These types of portrayals, however, are much less common than the portrayal of lawyers as smooth-talking gunslingers firing damning evidence and scathing cross-examinations rather than bullets.

C. SURVEY OF PRIME-TIME LAWYER TELEVISION SHOWS

To test the accuracy of these popular-culture portrayals, we surveyed television shows that feature lawyers, and we analyzed exactly what those television lawyers do on a minute-by-minute basis. If we assume that television writers have their characters play dynamic roles featuring continual action and exciting court clashes, the results of the survey should show that very little on-screen time is devoted to “paper-lawyering” or activities such as research and writing. Accordingly, we expected to see television attorneys spend significantly more time arguing in court, investigating cases, and meeting with clients than drafting documents, generating discovery, or researching legal issues.

During the fall of 2003 and spring of 2004, we recorded 27 hours of television shows about lawyering. To narrow the scope of our investigation, we analyzed only prime-time television shows (those appearing Sunday through Saturday between the hours of 8:00 p.m. and 11:00 p.m. EST) on the three primary television networks (ABC, CBS, and NBC). At one time, these networks would have contained the bulk of television programming. Today, however, with the creation of readily-accessible cable television networks such as Court TV, which broadcasts continuous shows concerning the law, or other networks running lawyer shows in syndication, the influx of celluloid information about lawyers is overwhelming. Therefore, to limit the sample size, we chose to review only

again in the law section of the public library. Denzel sits down to do research for a client and notices the disdainful looks from another white library patron. The looks imply to Denzel that that portion of the library is reserved for white lawyers and not black criminal defendants. Denzel then notices the librarian trying to move Tom Hanks, who is researching his own case, away from the other patrons. Recognizing that both have been targets of overt discrimination, Denzel asks Tom about his research and the new client-attorney relationship is born. While research is not often portrayed in movies, in that case it provided a convenient backdrop to the character and plot development.

144. *FROM THE HIP* (De Laurentiis Entertainment Group 1987).

145. *THE YOUNG PHILADELPHIANS* (Warner Brothers 1959).

146. *THE DEVIL'S ADVOCATE* (Warner Brothers 1997).

those television shows broadcast on these three networks during prime-time hours.

Next, we analyzed the content of all shows appearing during these times. Sixty-three total hours of programming per week played during this window. Of those sixty-three hours, nine hours of programming featured lawyers engaging in the practice of law. Those shows included: *Ed*, *The Guardian*, *JAG*, *Law & Order*, *Law & Order: Criminal Intent*, *Law & Order Special Victim's Unit*, *Lyon's Den*, *Miss Match*, and *The Practice*. We excluded shows that contained lawyer characters but focused on other themes (for example, many of the characters in *The West Wing* are attorneys, but the show is not about the practice of law, it is about running a presidency). Likewise, we excluded shows that did not primarily portray our target group, practicing attorneys (for example, *Judging Amy* was removed because it dramatized the life of a judge rather than a litigator and would necessarily feature more courtroom scenes than those focusing on practicing lawyers). Our goal was to analyze television shows that portrayed to the viewing public what practicing attorneys do on a day-to-day basis.¹⁴⁷

We sought to record four episodes of each show, for a total of 36 hours of programming. We targeted four episodes so that if any one episode involved a plot that varied from the normal storyline, it would not negatively impact the results. Unfortunately, before taping even began, one show, *Miss Match*, was cancelled entirely. Likewise, both *Lyon's Den* and *The Practice* ended during the course of taping. Thus, we recorded only two episodes of *The Practice*, a single episode of *Lyon's Den*, and no episodes of *Miss Match*. We collected data on four episodes of the remaining shows and five episodes of *Law & Order* (which incidentally has the largest consistent viewing of all these shows). In sum, we collected the following number of episodes per show: *Ed* (3), *JAG* (4), *Law & Order* (5), *Law & Order: Criminal Intent* (4), *Law & Order: Special Victims Unit* (4), *Lyon's Den* (1), *The Guardian* (4), and *The Practice* (2), for a total of twenty-seven hours of programming.

A research assistant watched the shows and coded the amount of time attorneys engaged in ten different activities (see Appendix A for an example of the coding sheet):

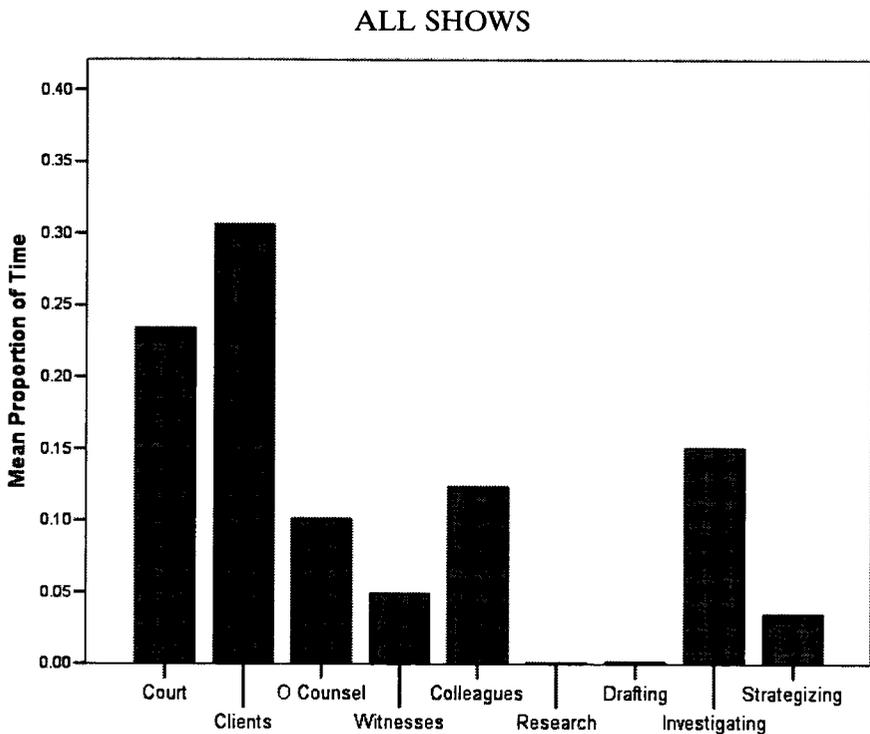
1. In court or meeting with a judge;
2. Meeting with clients;
3. Negotiating, calling, conversing with opposing counsel;
4. Meeting with witnesses;
5. Meeting with other lawyers in the attorney's own firm;
6. Researching the law;
7. Drafting or writing documents;
8. Investigating cases;

147. Interestingly, all nine of these shows feature litigators rather than corporate attorneys.

9. Strategizing; and
10. Other¹⁴⁸

The category coding was not mutually exclusive, so attorneys could be coded as meeting with lawyers in their own firm (category 5) and strategizing (category 9) at the same time. The time engaged in each of the first nine activities was divided by the total time lawyers were engaged in *all* lawyering activities to yield a proportional time for each category.¹⁴⁹ We considered categories 6 and 7 (researching the law and drafting or writing documents) as “paper-lawyering” activities and the other categories as “dynamic-lawyering” activities.

The following chart summarizes the average time spent doing activities 1-9 above for all of the shows recorded:

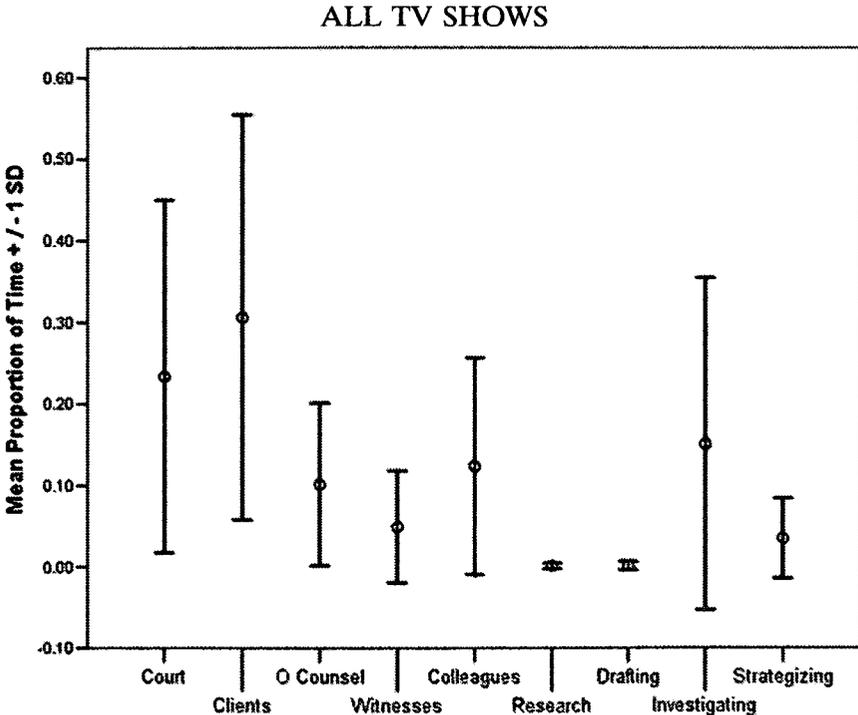


148. If an “other” activity was recorded, the viewer listed the specific activity. These “others” included meeting with the client’s mother, meeting with attorneys unrelated to the pending cases, meeting with potential witnesses unrelated to a particular lawsuit, reviewing a case at home, discussing with the district attorney other crimes committed by the defendant, meeting with a psychologist, and attending arbitration. While some of these activities could be argued to belong to the categories listed above, the reviewer decided the cases were sufficiently different from the first nine activities to justify their inclusion in the “other” category. Also, we did not include any reference to devices that communicate the passage of time, like snapshots of a clock. Instead we used only “real time” in the coding.

149. Category 10 was discarded in our comparisons because the responses did not correspond to any responses given in the questionnaires.

In these television shows, attorneys spent 23.3% of their time in court or before a judge, 30.5% meeting with clients, 10% talking to opposing counsel, 4.9% meeting with witnesses, 12.3% talking to other lawyers in their own firms, less than 1% conducting research, less than 1% drafting or writing documents, 15% investigating cases, and 3.4% strategizing.¹⁵⁰ Thus, on these shows, less than 1% of the total time spent lawyering was devoted to any sort of paper-lawyering. Instead, the time was spent conducting more dynamic-lawyering activities such as investigating cases, appearing in court, or attending meetings.

Furthermore, when we considered the distribution of time spent doing these activities, we saw an even greater disparity:



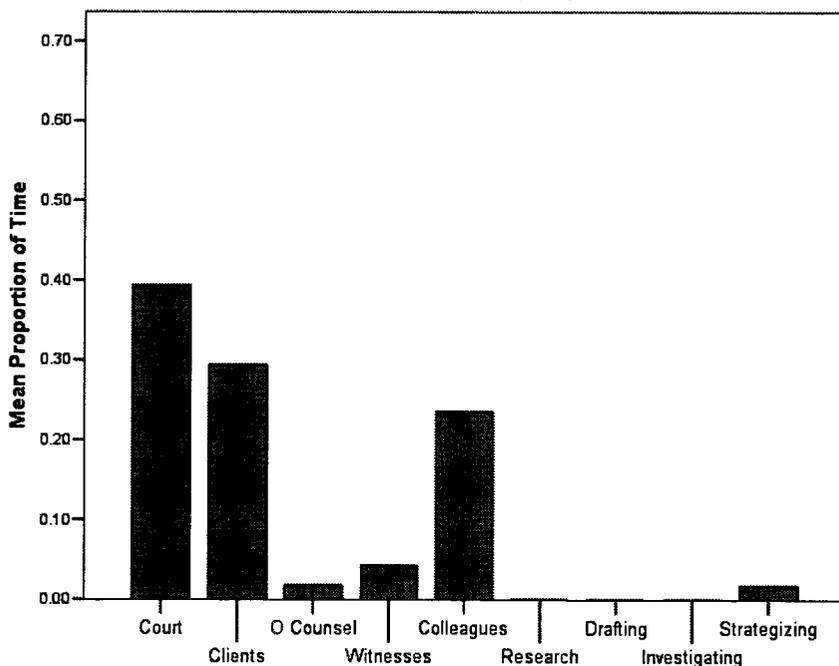
The above chart represents the mean proportion of time spent engaged in each activity and the range of values within one standard deviation of the mean. For each activity, one standard deviation above and below the mean captures 68.3% of the time devoted to that activity and can thus be considered within the normal range one could expect to see on television. While the proportion of time for the dynamic activities on some shows was considerably higher than the average (time spent in court: maximum of 70%; time spent with clients: 67%; and time spent investigating cases: 76%), the maximum times for the paper-lawyering remained almost non-

150. Appendix C, Table 2.

existent (time spent researching: 1%; time spent writing: 3%). In other words, when shows featured dynamic-lawyering, such as investigating cases or going to trial, they usually devoted huge blocks of time to that activity. Yet, even when the show featured some sort of paper-lawyering, the attorneys engaged in it for a tiny proportion of the show's time. In sum, the numbers calculated here corresponded with our estimation that television shows typically portray attorneys engaged in dynamic-lawyering, rather than paper-lawyering.

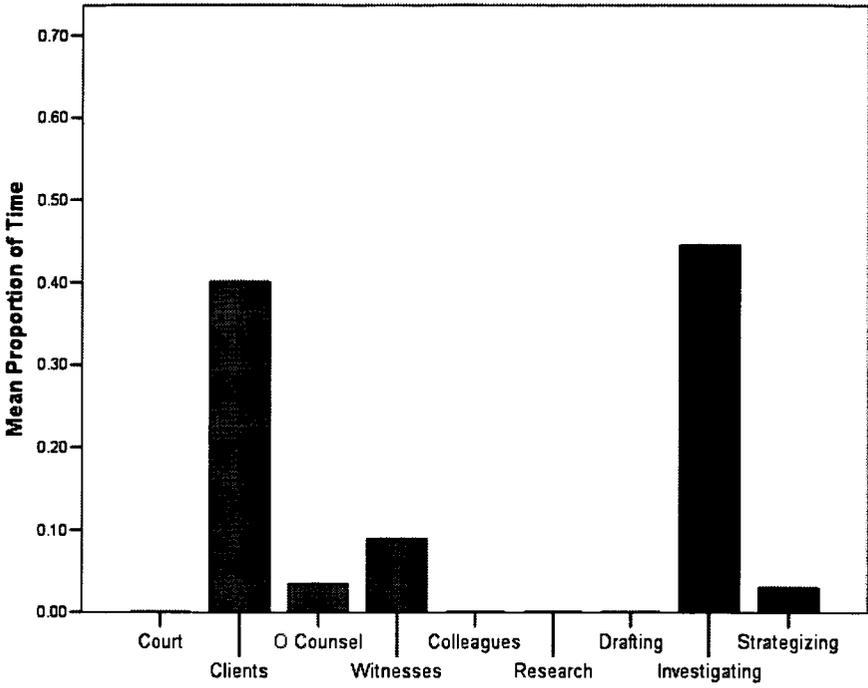
Interestingly, when this data is broken down by television show, the paper-lawyering activities do not appear in the shows we expected. We estimated that "serious" shows about lawyers, such as *Law & Order* or *The Practice* would portray attorneys more realistically than dramas that just happened to be about lawyers, such as *Ed* or *JAG*. Our estimation was formed in no small part by some of the outlandish storylines that have appeared on the latter shows.¹⁵¹ In reality, exactly the opposite was true. Of the eight shows recorded, only four of them devoted any time to one of the paper-lawyering categories: *Ed*, *Law & Order: Special Victim's Unit*, *JAG*, and *Lyon's Den*. The other four, including two of the *Law & Order* shows and *The Practice*, had absolutely no references to paper-lawyering. Compare the following graphs:

SHOW: THE PRACTICE

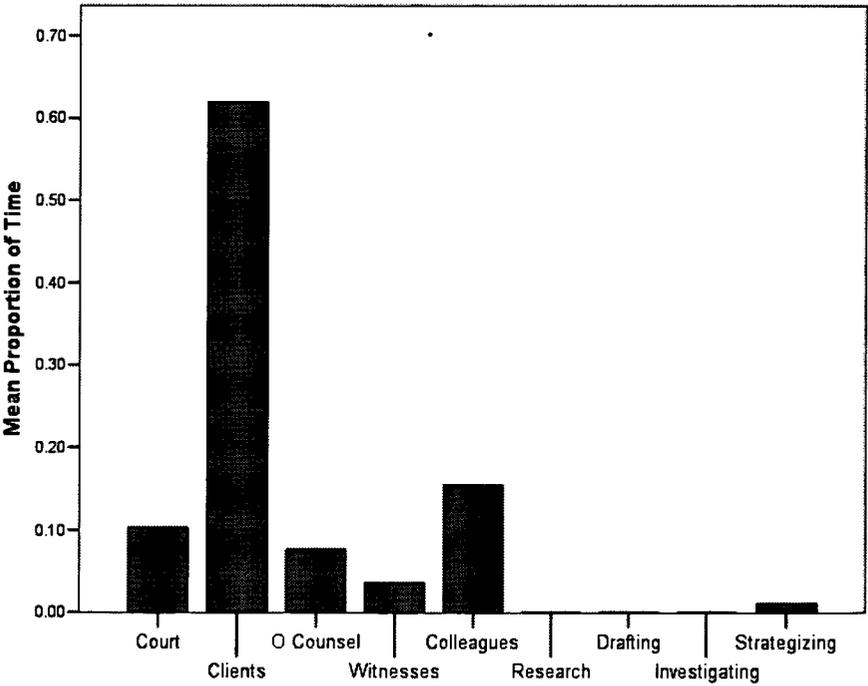


151. One scholar noted that while *The Practice* "embellishes the profession in order to attract more viewers" and succumbs to the ratings pressures in its content, it is considered the most realistic portrayal of attorneys in any legal television show. See Kitei, *supra* note 3, at 179-80.

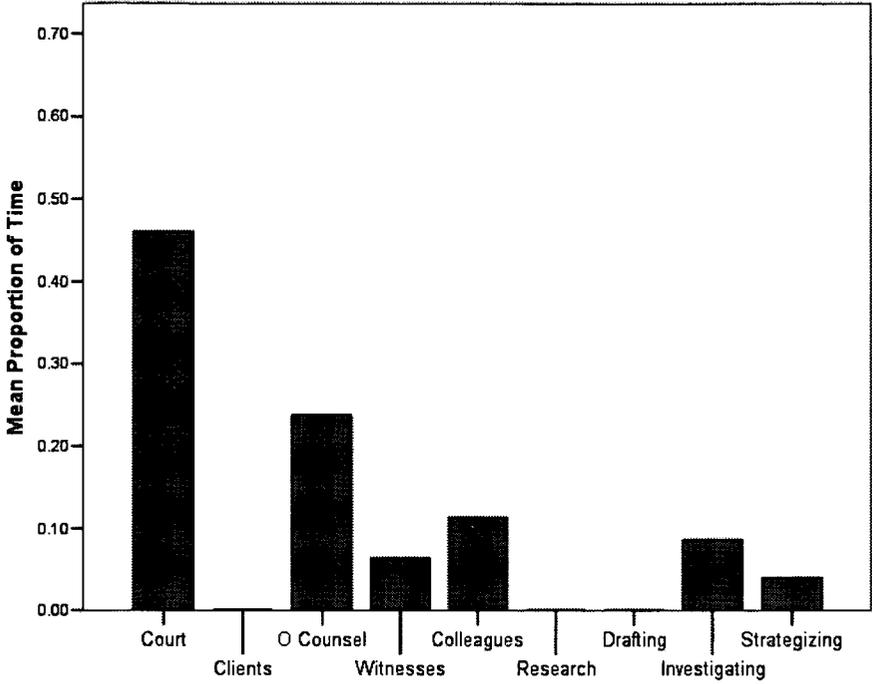
SHOW: L&O: CI



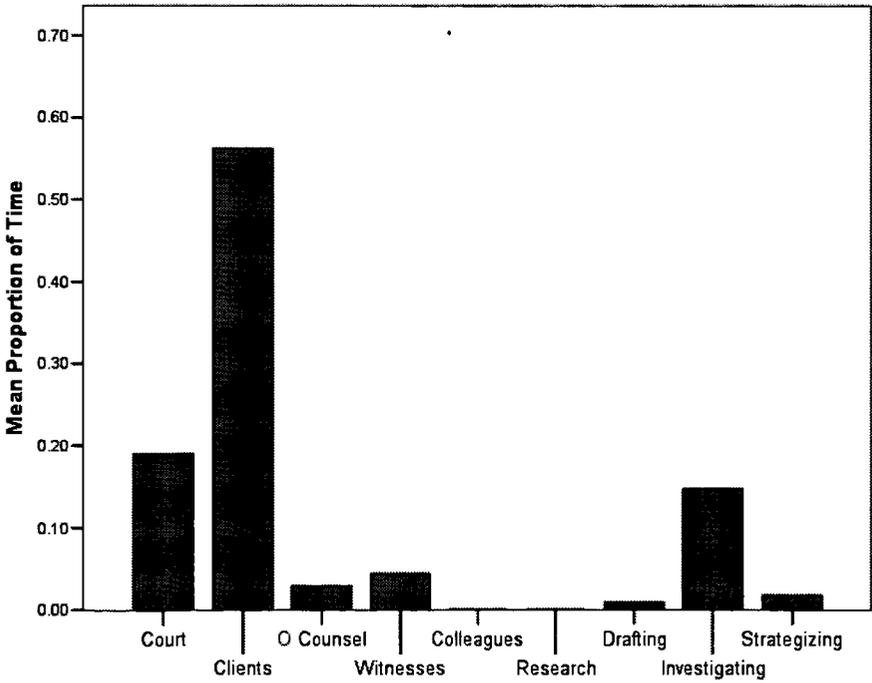
SHOW: THE GUARDIAN



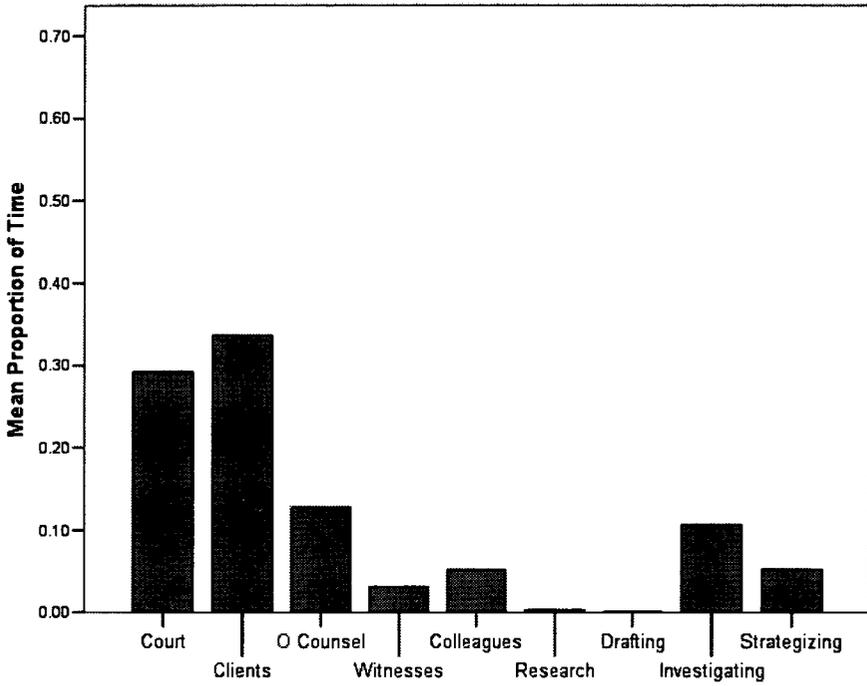
SHOW: L&O



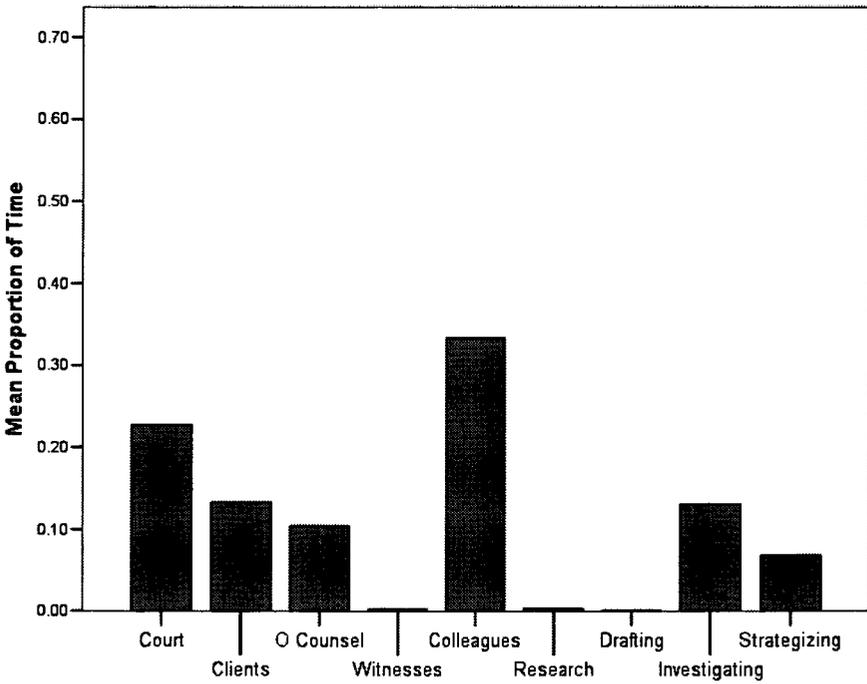
SHOW: ED



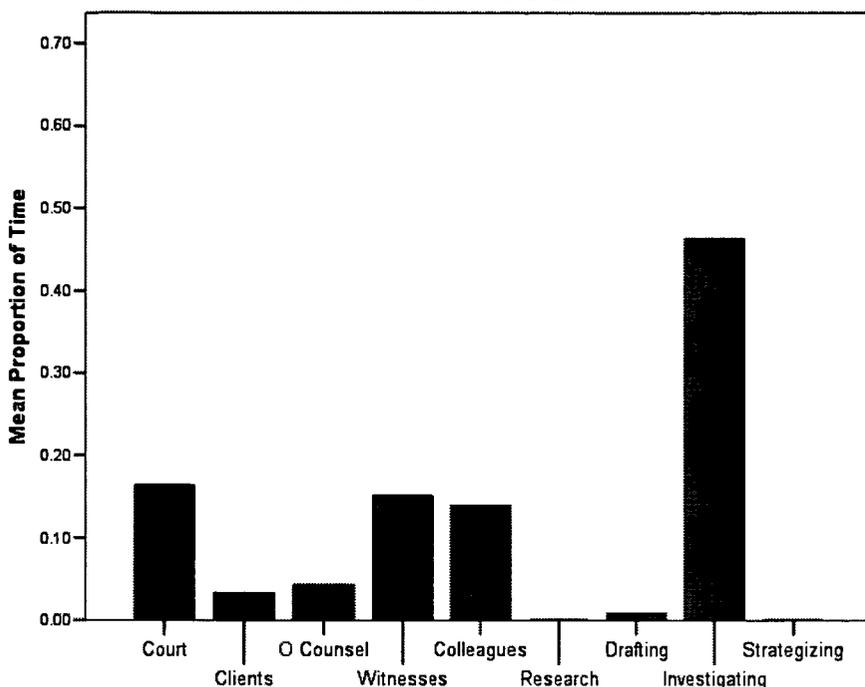
SHOW: L&O: SVU



SHOW: JAG



SHOW: LYON'S DEN



Furthermore, even those shows that did display paper-lawyering (*Ed, Law & Order: Special Victim's Unit, JAG, and Lyon's Den*) only portrayed one of the two activities, either research or writing, but not both. In contrast, these same four shows portrayed their characters as involved in either six or seven of the seven remaining dynamic activities. Thus, if a character researched a case, he or she would not draft a pleading, but would still meet with the clients, appear in court, argue with opposing counsel, attend depositions, investigate the case and strategize the trial. Where the portrayal involved any paper-lawyering, that activity was dwarfed by more prevalent dynamic activities.

IV. THE REALITIES OF LEGAL PRACTICE

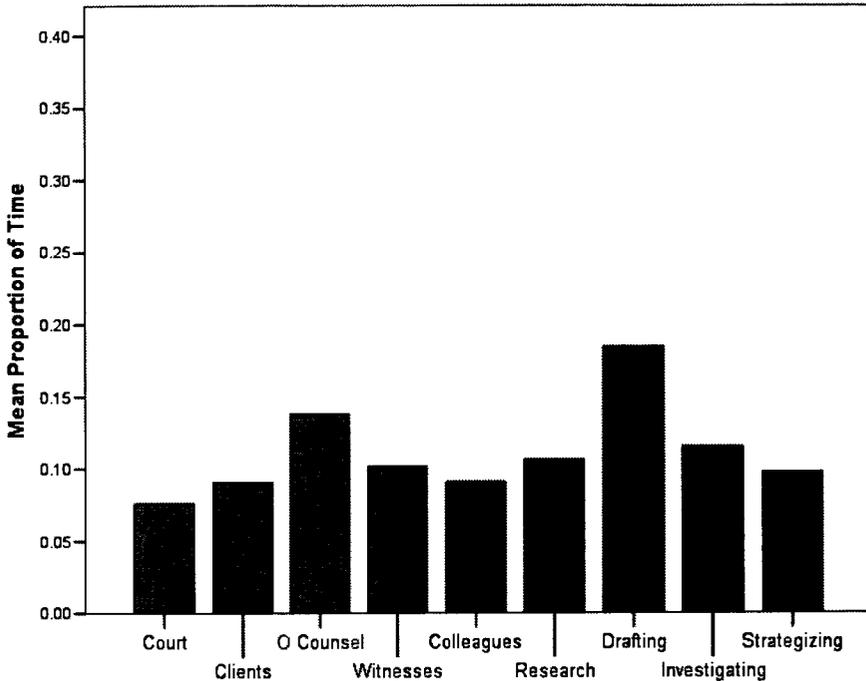
To test the accuracy of these prime-time portrayals, we surveyed practicing attorneys in Houston, Texas and in Austin, Texas. Practicing attorneys completed a web-based version of a questionnaire asking questions about the same nine categories of activities coded above.¹⁵² We recruited these attorneys by posting a request for voluntary participation on the Travis County Bar and the Houston Bar Association's e-mail distribution lists. Fifty-four practicing attorneys completed the survey, with one incomplete response, leaving fifty-three completed surveys. The responses were anonymous and were compiled in an online database at Mercer University. The practicing attorneys were asked a list of questions con-

152. Appendix B, Survey Questions for Practicing Attorneys.

cerning their practices and were also asked to estimate how much time trial lawyers spend engaged in the same discrete categories of activities analyzed in the recorded television shows.

Like the calculations for the television shows, the survey responses for the practicing attorneys were transformed to proportional times.¹⁵³ The following graph summarizes the average proportions of time practicing attorneys estimated trial lawyers actually spend doing activities 1-9 above.

PRACTICING ATTORNEYS

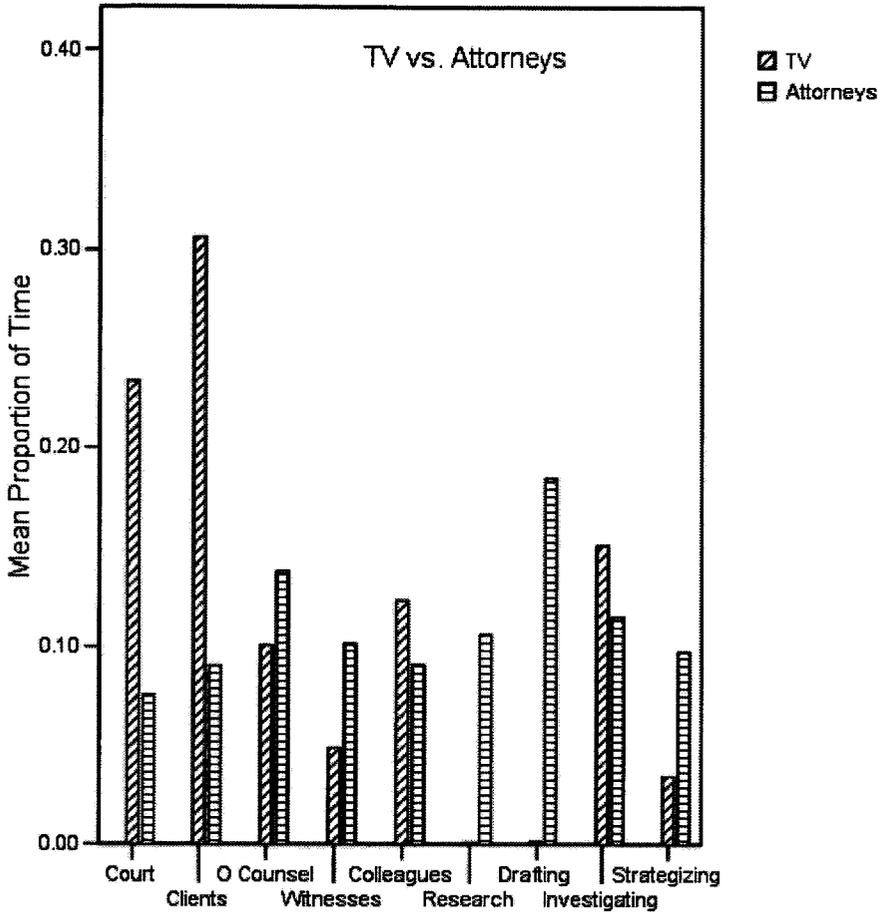


According to the practicing attorneys, trial lawyers spend 7.5% of their time in court or before a judge, 9% meeting with clients, 13.8% talking to opposing counsel, 10.1% meeting with witnesses, 9% talking to other lawyers in their own firms, 10.6% conducting research, 18.4% drafting or writing documents, 11.5% investigating cases, and 9.7% strategizing. Thus, practicing attorneys estimated that roughly 29% of the total time spent lawyering is devoted to paper-lawyering, compared to less than 1% in the television portrayals.

We compared the values recorded for the television shows to the attorney responses. All comparisons were significant at the $p < 0.002$ level un-

153. The middle value of each range was used to calculate these proportions. For example, if the participant responded to question number 3 (Appendix B), "How many hours a week do you estimate a trial attorney spends in court or meeting with a judge?" by circling 11-15 hours, we coded it as 13 hours.

less otherwise noted.¹⁵⁴ The comparison between attorney portrayals and attorney responses shows a clear difference between how attorneys are portrayed and the tasks they perform.



As we expected, the attorney responses varied greatly from the portrayals on television. Six of the nine categories, or 67%, showed a statistically significant difference.¹⁵⁵ Attorneys estimated that they spend less time in court than depicted on TV (7.58% vs. 23.36%), less time meeting with clients than depicted on TV (9.05% vs. 30.59%), more time meeting with witnesses than depicted on TV (10.14% vs. 4.90%), more time doing

154. Because we were comparing the responses to nine questions, a Bonferroni correction was performed to reduce capitalizing on chance. (Our comparisons actually numbered 27, see discussion *infra* below: nine questions compared across three groups [television, practicing attorneys, and law students].) Consequently, we considered differences to be meaningful if the observed significance value was below 0.002 (Bonferroni correction: $0.05/27 = 0.002$).

155. Appendix C, Table 2; Appendix C, Table 4.

research than depicted on TV (10.61% vs. 0.09%), more time drafting than depicted on TV (18.46% vs. 0.13%), and more time strategizing than depicted on TV (9.74% vs. 3.46%). The other three comparisons did not approach our chosen criterion of significance.

In sum, as we expected, our data indicated that there is a disparity between popular culture portrayals of lawyering activities and the reality of those activities.

V. LAW STUDENT PERCEPTIONS OF LAWYERING

To test the pop-culture legal realists' theory that viewers' perceptions of lawyering are formed from popular culture influences, we also surveyed first-year law students and collected their responses to the same questions we had asked the practicing attorneys. Our theory was that first-year law students, surveyed at the very beginning of their first week of class (before they were exposed to accurate portrayals of lawyers), could give a rough idea about viewers' perceptions of lawyering. Fifty-two first-year law students enrolled in Legal Writing at Baylor University School of Law and forty-one first-year law students enrolled in Legal Writing at South Texas College of Law were asked for their voluntary participation to complete the questionnaire shown in Appendix D. The survey was handed out in class by the course instructors, collected when students were finished, and mailed to the authors. Ninety-three first-year law students filled out the survey. Four responses were not completed properly and could not be used, leaving eighty-nine completed surveys.

Like the responses for the practicing attorneys and the coding for the television shows, the first-year survey responses were transformed to proportional times engaged in each lawyering activity.¹⁵⁶ Those proportional values were used in the comparisons below.

A. EFFECT OF LAWYERING EXPOSURE ON FIRST-YEAR LAW STUDENTS' PERCEPTIONS

To test for previous exposure to lawyering and remove biased answers, we split the first-year law students into two groups: those with prior exposure to lawyering activities and those without prior exposure. We reasoned that those with prior exposure to lawyering would answer the questions differently, and that those differences would indicate that the non-exposed groups were influenced by popular culture. We labeled participants as having exposure to lawyering if they indicated that they had previously worked or interned in a law firm, if any member of their immediate family practiced law, or if any member of their immediate family worked in a law firm.¹⁵⁷ We compared these two groups via non-direc-

156. Again, the middle value of each range was used: if the participant responded to Question 3 (Appendix D), "How many hours a week do you estimate a trial attorney spends in court or meeting with a judge?" by circling 11-15 hours, then it was coded as 13 hours.

157. Appendix D, Questions 12, 13, 14.

tional *t*-tests for the nine questions that asked how many hours a week attorneys engage in a variety of activities. We considered differences to be meaningful if the observed significance value was below 0.006.¹⁵⁸

To our surprise, no significant differences met this criterion, indicating that prior exposure to lawyering did not influence the two groups' perceptions of what lawyers do. Only one comparison came close.¹⁵⁹ Participants who were exposed to lawyering estimated that lawyers spend 9.48% of their time meeting with clients and those not exposed to lawyering estimated that lawyers spend 12.92% of their time meeting with clients, $t(87) = 0.008$. No other comparisons approached our chosen criterion of 0.006. Because only one of the nine comparisons even approached our chosen criterion, we considered these two groups to not be significantly different from each other and therefore collapsed data across the two groups for all subsequent analyses.

B. LAW STUDENTS' PERCEPTIONS COMPARED TO POPULAR CULTURE AND REALITY

The second series of analyses consisted of two sets of comparisons: first-year law students versus prime time network television shows about lawyering, and first-year law students versus practicing attorneys.¹⁶⁰ We performed both comparisons for each of the nine questions addressing time allocation in the surveys, yielding 27 total comparisons.¹⁶¹ All comparisons were significant at the $p < 0.002$ level unless otherwise noted.¹⁶²

1. *First-year Law Students v. Television Shows*

In the first comparison, we looked at whether law students' perceptions of lawyering resembled lawyering portrayals on television. Under the pop-culture legal realists' theory, we expected law students' perceptions to more closely resemble popular culture than reality. The chart below compares the mean proportions of time depicted in television to the mean proportion estimated by the students:

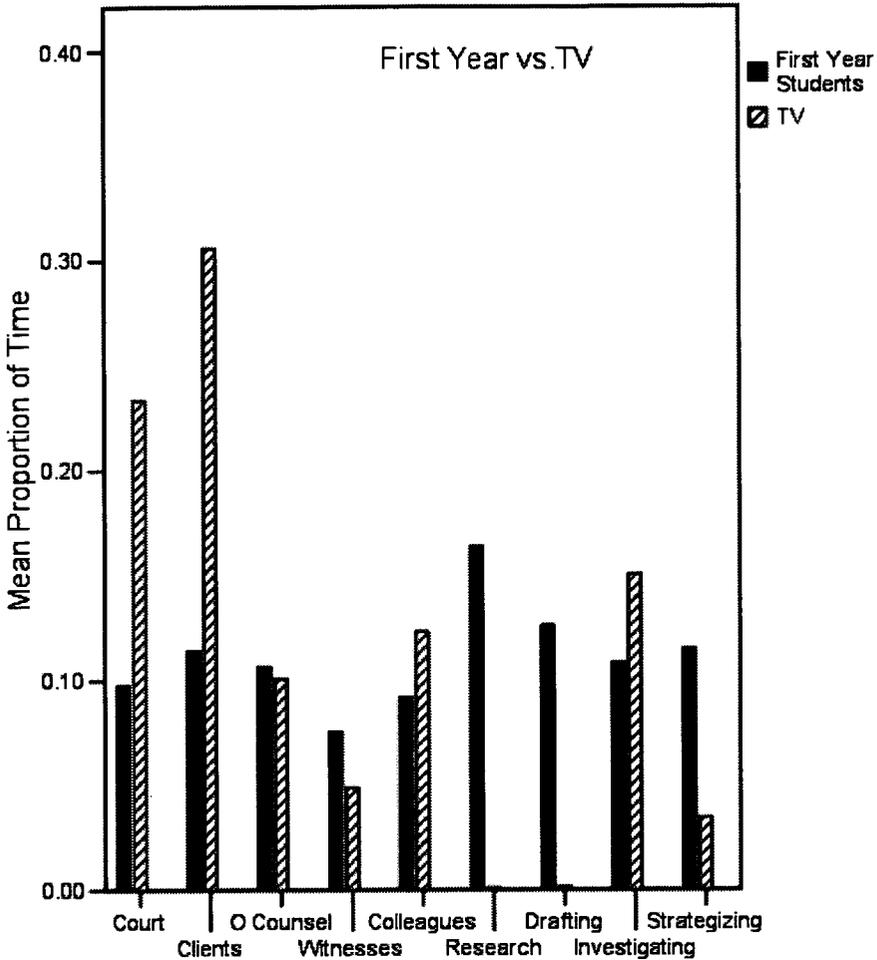
158. Because we were comparing the responses to nine questions, we again used a Bonferroni correction to reduce capitalizing on chance. Consequently, the Bonferroni correction gave us a comparison value of $0.05/9 = 0.006$.

159. Appendix C, Table 1.

160. Again, three sets of comparisons were actually made (nine questions tested by three groups [television, practicing lawyers and law students]), resulting in twenty-seven total comparisons.

161. Appendix A; Appendix D, Questions 3 through 11.

162. We again utilized non-directional *t*-test with a Bonferroni correction ($0.05/27 = 0.002$) to offset the increased likelihood of finding a significant difference by chance. We considered differences to be statistically significant if the observed significance value was below 0.002.

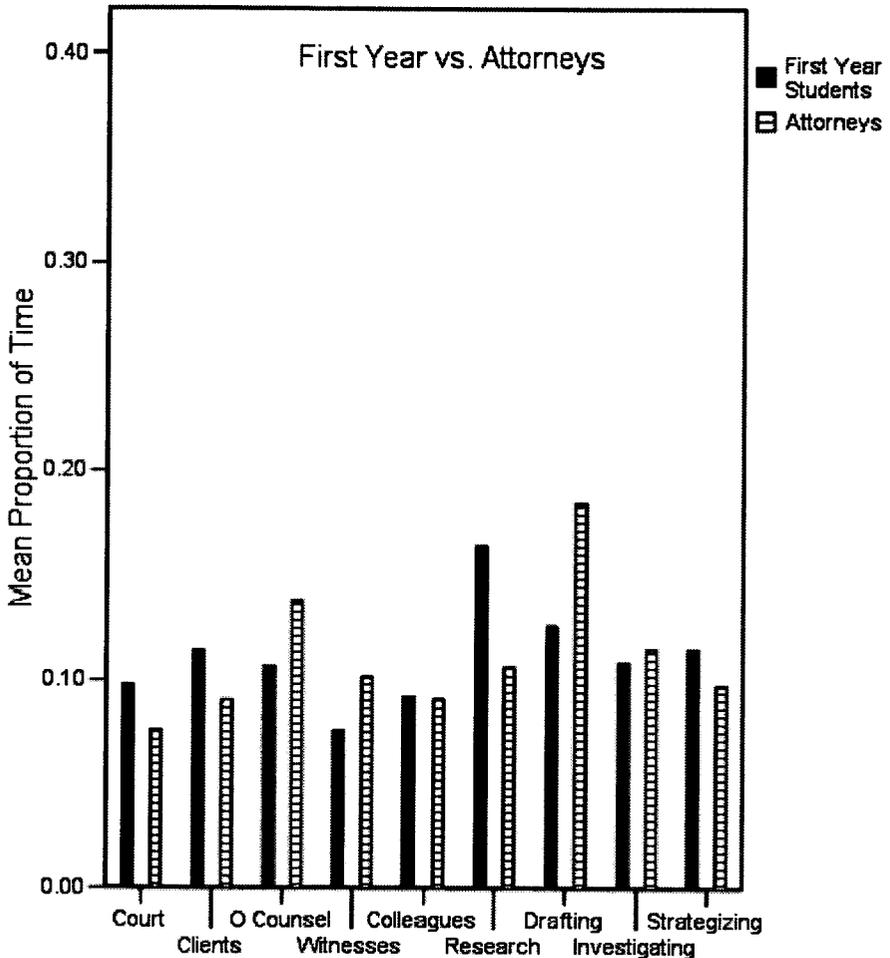


To our surprise, our comparisons indicated that 5 of the 9 categories, or 56%, showed a statistically significant difference.¹⁶³ First-year students estimated that lawyers spend less time in court than depicted on TV (9.77% vs. 23.26%), less time with clients than depicted on TV (11.41% vs. 30.59%), more time doing research than depicted on TV (16.39% vs. 0.09%), more time drafting than depicted on TV (12.63% vs. 0.13%) and more time strategizing than depicted on TV (11.49% vs. 3.46%). The other four comparisons did not approach our chosen criterion of significance. In other words, for more than half the categories, including our two paper-lawyering test categories, law students' responses were more similar to realities of lawyering than to prime-time portrayals.

163. Appendix C, Table 2; Appendix C, Table 3.

2. *First-year Law Students v. Practicing Attorneys*

In the next comparison, we looked to see whether law students' perceptions of lawyering resembled actual lawyers' responses. Again, under the legal-realist theory, we expected law students' perceptions to vary more from the attorney responses than they did from the television data. The chart below compares the mean proportions of time estimated by the students to the mean proportion estimated by the practicing attorneys:

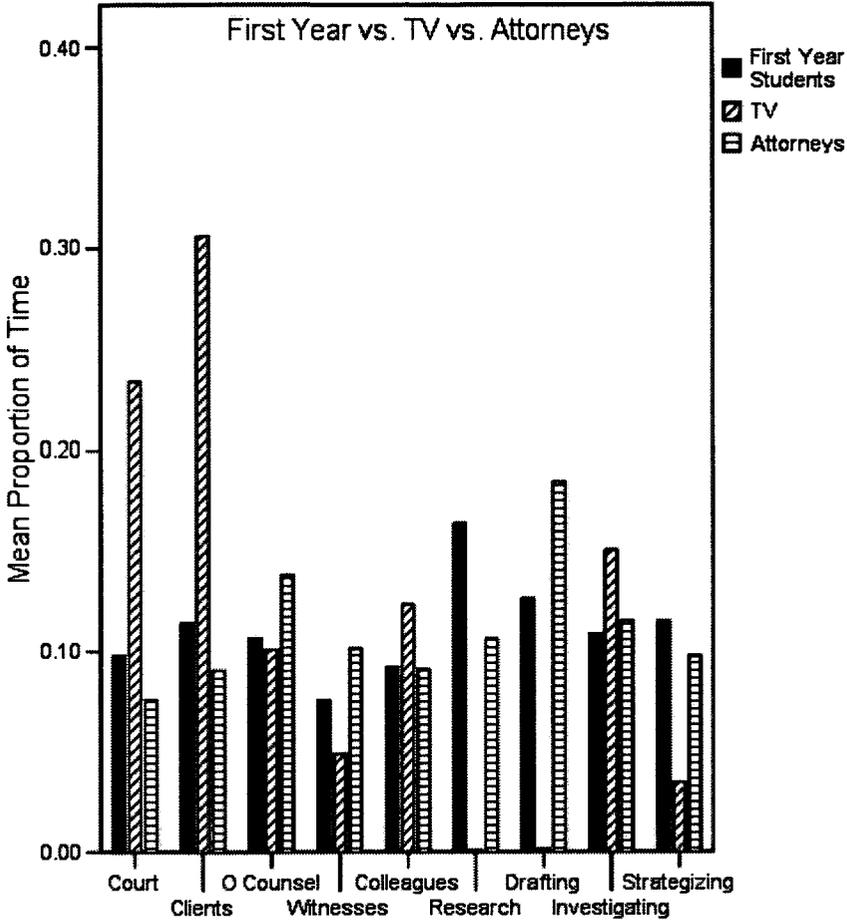


Here, only two of the nine comparisons, or 22%, showed a statistically significant difference.¹⁶⁴ First-year students estimated that attorneys spend more time doing research than estimates by practicing attorneys (16.39% vs. 10.61%) and less time drafting than estimates by practicing attorneys (12.63% vs. 18.46%). Two other comparisons were close to our chosen significance level. First-year students estimated that attorneys

164. Appendix D; Appendix C, Table 2; Appendix C, Table 5.

spend less time meeting with opposing counsel than estimates by practicing attorneys (10.67% vs. 13.81%) and less time meeting with witnesses than estimates by practicing attorneys (7.56% vs. 10.14%). The other five comparisons did not approach our chosen criterion of significance.

Importantly, our results indicated that while law students' responses were significantly different from both television portrayals and practicing attorney responses, they were more similar to (or differed less from) the latter group:



PERCENTAGE OF STATISTICAL DIFFERENCES

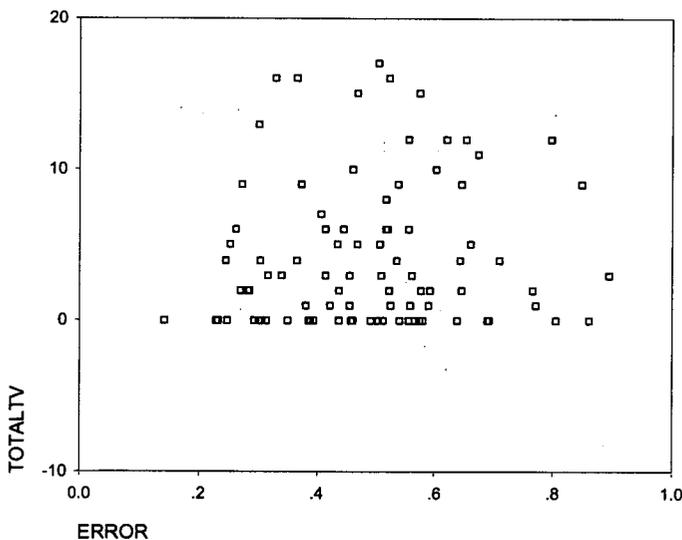
	Total Comparisons	Number Statistically Significant (p<.002)	Percentage Statistically Significant (p<.002)
TV v. Practicing Lawyers	9	6	67%
TV v. 1st-year Law Students	9	5	56%
Practicing Lawyer v. 1st-year Law Students	9	2	22%

Thus, even though law student responses differed from both television and reality for our test categories, the data as a whole indicated these law students' had a pretty good idea of the realities of legal practice, despite erroneous prime-time portrayals.

3. *Law Students' Error Correlated to Amount of Television Viewing*

Finally, we tested the influence of popular culture on law student perceptions of lawyering in one more way. We compared the students' rate of error (how "wrong" they were in their estimates on each category) to the amount of television they stated that they watched.¹⁶⁵ If popular culture influenced their perceptions, we expected there to be a correlation between that rate of error and the hours of television viewed. Our first test compared the rate of error to the total amount per month of viewing prime-time lawyer television shows. The data indicated no correlation between these groups ($r=0.09$, $p=.41$). Below is a scatterplot for this comparison (evidence of a correlation would appear as a diagonal orientation toward the upper right-hand corner):

CORRELATION BETWEEN ALL 1ST-YEAR STUDENT'S RATE OF ERROR AND TOTAL AMOUNT PER MONTH OF VIEWING PRIME-TIME LAWYERING TELEVISION SHOWS



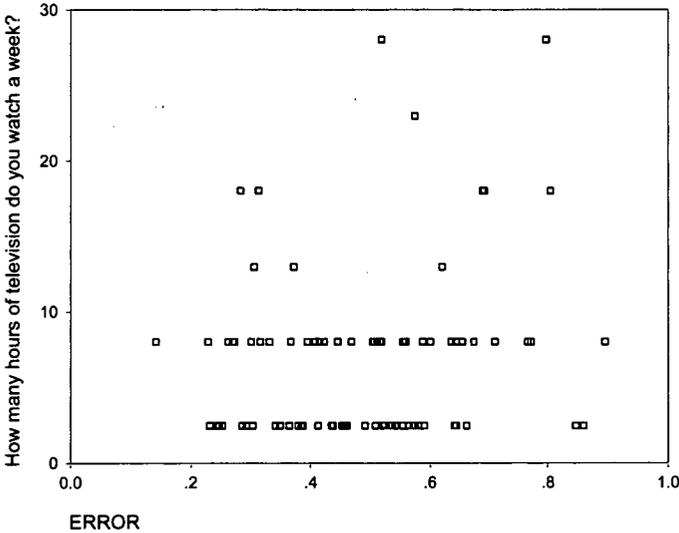
Note the lack of any clear correlation between amount of lawyer-show viewing and rate of error.

Our second test compared the rate of error to the total amount per week of viewing *any* television shows. Again, the data indicated no cor-

165. "Cognitive psychology researchers believe that there is a causal relationship, not merely a correlation, between belief formation and heavy television watching." Asimow, *Bad Lawyers*, *supra* note 5, at 554.

relation between these groups ($r=0.18$, $p=0.09$). Below is the scatterplot for this comparison:

**CORRELATION BETWEEN ALL 1ST-YEAR STUDENTS' RATE
OF ERROR AND AMOUNT PER WEEK OF TELEVISION
VIEWING (ANY SHOW)**



Thus, again, our data appeared to indicate that law students' perceptions of what lawyers do on a daily basis resembles reality regardless of how much television they watch.

Overall, our data does not support the idea that first-year law student perceptions reflect lawyering as it is portrayed on prime-time network television. First-year students' estimates of time spent performing lawyering activities were remarkably accurate *despite* their viewing of television depictions that were significantly different from reality. And, this disparity was even greater for the paper-lawyering activities: first-year law students estimated attorneys spend more time doing research than even the practicing attorneys estimated despite the fact that research was portrayed the least in our sample. Based on our data, it appears that first-year students were fairly accurate in their perceptions of lawyering even when they watched erroneous depictions. Their responses are certainly much more accurate than the image of lawyering depicted in our sample of television shows.

VI. CONCLUSION

This article indicates that the pop-culture legal-realist presumptions about the amount of influence popular culture has on perceptions of lawyering may be too far-reaching. The pop-culture legal realists believe there is a synergism between popular culture and the realities of legal

practice. Our data indicates that the gap between the real legal process and how law is generally portrayed in popular culture is quite wide, at least as it pertains to lawyering activities. The portrayals of attorneys on prime-time lawyering shows comported with the traditional themes and stereotypes recognized by Papke as popular culture's law. Prime-time lawyers are depicted as engaging in dynamic-lawyering activities and rarely practice paper-lawyering. In contrast, practicing attorneys agree that lawyers spend considerable time engaging in the latter. Clearly, there is a divide between popular culture and reality on this issue.

Our data, however, did not support the pop-culture legal realists' presumption that popular culture influences perceptions of laypersons. The gap between the portrayals and perception exists. Our data showed that first-year law students had a relatively accurate view about lawyering activities despite viewing erroneous depictions on television. Under the legal-realist view, because society gains the majority of its perceptions about the law from television, celluloid portrayals of the law should result in a viewer's misunderstanding of attorneys' activities. Accordingly, we expected the law students' responses to more closely resemble popular culture portrayals because, theoretically, popular culture was the only source of information they had. Our data, however, indicated otherwise. Under our test, law students' perceptions more closely resembled reality than the popular culture portrayals.

We do not discount the possibility that the law students do not accurately represent society at large. After all, law students are self-selected to become trained in the law and may be acquiring information about legal practice from a different source. Furthermore, because law school admission requires either a four-year college degree or close to the equivalent, law students are more educated than the majority of the lay public, which also may have influenced our results. Perhaps future research can address these issues and shed light on where the law students get their information and how similar their perceptions are to those of the average layperson. For our purposes, however, this sample certainly gave us surprising results. Our data seems to indicate that popular culture may not have the influence on perceptions that pop-culture legal realists believe it does. Accordingly, we believe that people generally understand that what they see on television is just that—TV.

APPENDIX A

CODE SHEETS: EFFECT OF POPULAR CULTURE ON STUDENT'S PERCEPTIONS OF LEGAL WRITING

Coder: _____

Show: _____

Date: _____

Running time, including commercials: _____

In court or meeting with a judge:

Grid of 20 empty boxes for recording time.

With clients:

Grid of 20 empty boxes for recording time.

Negotiating/ calling/ conversing with opposing counsels:

Grid of 20 empty boxes for recording time.

With witnesses (witness meetings/ depositions):

Grid of 20 empty boxes for recording time.

With other lawyers in attorney's own firm:

Grid of 20 empty boxes for recording time.

Researching the law:

Grid of 20 empty boxes for recording time.

Drafting/writing documents:

Grid of 20 empty boxes for recording time.

Investigating cases:

Grid of 20 empty boxes for recording time.

Strategizing:

Grid of 20 empty boxes for recording time.

Other:

Grid of 20 empty boxes for recording time.

APPENDIX B

SURVEY QUESTIONS FOR PRACTICING ATTORNEYS

What is your gender? M F

How many hours a week do you estimate a trial attorney works?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends in court or meeting with a judge?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends with clients?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends negotiating/ calling/ conversing with opposing counsels?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends with witnesses (witness meetings/ depositions)?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney meets with other lawyers in his own firm?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends researching the law?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends drafting/writing documents?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends investigating cases?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends strategizing?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

Have you ever worked/interned in a law firm (doing any job)?

If yes, please list the following information for each position:

Length of Job _____ Size of firm _____ Area of Practice

Does any member of your immediate family practice law?

Does any member of your immediate family work in a law firm (doing any job)?

What area of the law do you intend to practice?

Criminal
 Corporate
 Real Estate
 Civil Litigation
 Family Law
 Estate Planning
 Environmental Law
 Securities
 Tax
 Government Service
 Other _____

In what size firm do you intend to work?

Solo Practitioner
 Small (1-20 attorneys)
 Medium (20-50 attorneys)
 Moderate (50-100 attorneys)
 Large (100+ attorneys)

How many hours of television do you watch a week?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours of prime-time television do you watch a week?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours of prime-time programming concerning law firms or lawyers do you regularly watch a week?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

Indicate how many times a month you typically watch each of the following shows:

Law & Order:	1	2	3	4
Law & Order Criminal Intent	1	2	3	4
Law & Order Special Victim's Unit	1	2	3	4
Lyon's Den	1	2	3	4
Jag	1	2	3	4
The Guardian	1	2	3	4
The Practice	1	2	3	4
Ed	1	2	3	4
Miss Match	1	2	3	4

Please list any television shows concerning law firms or lawyers you have watched on a semi-regular basis (at least twice a month) during the last 5 years.

APPENDIX C

TABLE 1: EXPOSURE VS. NO EXPOSURE

	Exposure to Lawyering	N	Mean	SD	Std. Error	t	df	Sig.
Court	Exposed	39	0.0881	0.0502	0.0080			
	Not Exposed	50	0.1051	0.0757	0.0107	-1.22	87	0.227
Clients	Exposed	39	0.0948	0.0512	0.0082			
	Not Exposed	50	0.1292	0.0649	0.0092	-2.71	87	0.008
O Counsel	Exposed	39	0.1130	0.0692	0.0111			
	Not Exposed	50	0.1019	0.0617	0.0087	0.79	87	0.429
Witnesses	Exposed	39	0.0799	0.0552	0.0088			
	Not Exposed	50	0.0722	0.0355	0.0050	0.80	87	0.425
Colleagues	Exposed	39	0.1013	0.0656	0.0105			
	Not Exposed	50	0.0851	0.0579	0.0082	1.23	87	0.220
Research	Exposed	39	0.1658	0.0896	0.0144			
	Not Exposed	50	0.1624	0.0695	0.0098	0.20	87	0.842
Drafting	Exposed	39	0.1358	0.0586	0.0094			
	Not Exposed	50	0.1188	0.0647	0.0091	1.28	87	0.205
Investigating	Exposed	39	0.1083	0.0493	0.0079			
	Not Exposed	50	0.1089	0.0484	0.0068	-0.06	87	0.955
Strategizing	Exposed	39	0.1131	0.0698	0.0112			
	Not Exposed	50	0.1163	0.0719	0.0102	-0.21	87	0.832

TABLE 2: GROUP STATISTICS FOR TIME SPENT IN VARIOUS
LAWYERING ACTIVITIES

		N	Mean	SD	Std. Error
Court	First Year Students	89	0.0977	0.0659	0.0070
	Lawyers via Web	53	0.0758	0.0655	0.0090
	TV	27	0.2336	0.2165	0.0417
Clients	First Year Students	89	0.1141	0.0614	0.0065
	Lawyers via Web	53	0.0905	0.0565	0.0078
	TV	27	0.3059	0.2485	0.0478
O Counsel	First Year Students	89	0.1067	0.0650	0.0069
	Lawyers via Web	53	0.1381	0.0735	0.0101
	TV	27	0.1009	0.0998	0.0192
Witnesses	First Year Students	89	0.0756	0.0451	0.0048
	Lawyers via Web	53	0.1014	0.0586	0.0080
	TV	27	0.0490	0.0686	0.0132
Colleagues	First Year Students	89	0.0922	0.0616	0.0065
	Lawyers via Web	53	0.0909	0.0598	0.0082
	TV	27	0.1233	0.1332	0.0256
Research	First Year Students	89	0.1639	0.0785	0.0083
	Lawyers via Web	53	0.1061	0.0610	0.0084
	TV	27	0.0009	0.0033	0.0006
Drafting	First Year Students	89	0.1263	0.0623	0.0066
	Lawyers via Web	53	0.1846	0.0782	0.0107
	TV	27	0.0013	0.0053	0.0010
Investigating	First Year Students	89	0.1086	0.0485	0.0051
	Lawyers via Web	53	0.1152	0.0782	0.0107
	TV	27	0.1505	0.2037	0.0392
Strategizing	First Year Students	89	0.1149	0.0706	0.0075
	Lawyers via Web	53	0.0974	0.0528	0.0073
	TV	27	0.0346	0.0490	0.0094

TABLE 3: FIRST YEAR STUDENTS VS. TV

		t	df	Sig.
Court	First Year Students			
	TV	-5.222	114	0.000
Clients	First Year Students			
	TV	-6.695	114	0.000
O Counsel	First Year Students			
	TV	0.357	114	0.722
Witnesses	First Year Students			
	TV	2.355	114	0.020
Colleagues	First Year Students			
	TV	-1.695	114	0.093
Research	First Year Students			
	TV	10.752	114	0.000
Drafting	First Year Students			
	TV	10.375	114	0.000
Investigating	First Year Students			
	TV	-1.793	114	0.076
Strategizing	First Year Students			
	TV	5.512	114	0.000

TABLE 4: TV VS. LAWYERS VIA WEB

		t	df	Sig.
Court	TV			
	Lawyers via Web	4.91	78	0.000
Clients	TV			
	Lawyers via Web	6.05	78	0.000
O Counsel	TV			
	Lawyers via Web	-1.89	78	0.063
Witnesses	TV			
	Lawyers via Web	-3.57	78	0.001
Colleagues	TV			
	Lawyers via Web	1.50	78	0.137
Research	TV			
	Lawyers via Web	-8.92	78	0.000
Drafting	TV			
	Lawyers via Web	-12.12	78	0.000
Investigating	TV			
	Lawyers via Web	1.12	78	0.268
Strategizing	TV			
	Lawyers via Web	-5.16	78	0.000

TABLE 5: FIRST-YEAR STUDENTS VS. ATTORNEYS

		t	df	Sig.
Court	First Year Students Lawyers via Web	1.91	140	0.0578
Clients	First Year Students Lawyers via Web	2.28	140	0.0239
O Counsel	First Year Students Lawyers via Web	-2.65	140	0.0091
Witnesses	First Year Students Lawyers via Web	-2.95	140	0.0037
Colleagues	First Year Students Lawyers via Web	0.12	140	0.9016
Research	First Year Students Lawyers via Web	4.60	140	0.0000
Drafting	First Year Students Lawyers via Web	-4.89	140	0.0000
Investigating	First Year Students Lawyers via Web	-0.61	140	0.5404
Strategizing	First Year Students Lawyers via Web	1.56	140	0.1213

APPENDIX D

SURVEY QUESTIONS FOR 1ST-YEAR LAW STUDENTS

What is your gender? M F

How many hours a week do you estimate a trial attorney works?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends in court or meeting with a judge?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends with clients?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends negotiating/ calling/ conversing with opposing counsels?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends with witnesses (witness meetings/ depositions)?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney meets with other lawyers in his own firm?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends researching the law?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends drafting/writing documents?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends investigating cases?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours a week do you estimate a trial attorney spends strategizing?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

Have you ever worked/interned in a law firm (doing any job)?

If yes, please list the following information for each position:

Length of Job _____ Size of firm _____ Area of Practice

Does any member of your immediate family practice law?

Does any member of your immediate family work in a law firm (doing any job)?

What area of the law do you intend to practice?

Criminal
 Corporate
 Real Estate
 Civil Litigation
 Family Law
 Estate Planning
 Environmental Law
 Securities
 Tax
 Government Service
 Other _____

In what size firm do you intend to work?

Solo Practitioner
 Small (1-20 attorneys)
 Medium (20-50 attorneys)
 Moderate (50-100 attorneys)
 Large (100+ attorneys)

How many hours of television do you watch a week?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours of prime-time television do you watch a week?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

How many hours of prime-time programming concerning law firms or lawyers do you regularly watch a week?

0-5 6-10 11-15 16-20 21-25 26-30 31-35 36-40 41-45 46-50 51+

Indicate how many times a month you typically watch each of the following shows:

Law & Order:	1	2	3	4
Law & Order Criminal Intent	1	2	3	4
Law & Order Special Victim's Unit	1	2	3	4
Lyon's Den	1	2	3	4
Jag	1	2	3	4
The Guardian	1	2	3	4
The Practice	1	2	3	4
Ed	1	2	3	4
Miss Match	1	2	3	4

Please list any television shows concerning law firms or lawyers you have watched on a semi-regular basis (at least twice a month) during the last 5 years.

Casenotes

