

What can a crime drama teach us about justice?

July 20 2016, by Jason Kornwitz



"Starting from the late 1930s until the post-WWII period—the "film noir" period—film depicted an underside of law, corruption, and unreasonable attachment to formality at the expense of justice," says law professor Jessica Silbey. Credit: Greg Grinnell

Law professor Jessica Silbey, a nationally recognized expert in the use of

film to communicate about the law, will discuss the history of law in American film on Wednesday at a Law Library of Congress event. Here, she looks at the pitfalls of crime shows, names her favorite legal drama, and explains how the depiction of law in film has changed over the past 125 years.

First and foremost, how has the depiction of law in film and television changed since motion picture cameras were invented in the 1890s?

Until about the mid-1930s, [law](#) in film was an authoritative and neutral process—a formal and almost religious space—in which truth could be revealed or justice done through heavy-handed elites. Starting from the late-1930s until the post-WWII period—the "film noir" period—film depicted an underside of law, corruption, and unreasonable attachment to formality at the expense of justice. There are a lot of films from this time that depict legal heroes that flout the law to make sure the truth comes out and that depict mobs taking over both the legal process and civil society. In the mid-1950s onward, classical Hollywood cinema took over with its brighter depiction of the promise of law to help the everyday person. It is an evolution that sounds in grassroots democracy, the value of juries, and the promise of individuals to make a difference working within the system. From the late-1980s, many law films were ahead of their time in terms of civil rights, depicting African American judges, female litigators, and a legal system that is open and sufficiently self-reflective to incorporate criticism into its pursuit of justice. You might think of Philadelphia, with Tom Hanks and Denzel Washington, as one of these films, or A Few Good Men, with Demi Moore as Lt. Cmdr. Joanne Galloway and J.A. Preston as Judge Julius Alexander Randolph. TV has followed a similar arc, but with more police serials than courtroom dramas. As you can see from these periods, the themes of film track and help constitute U.S. socio-political culture.

Police procedurals and legal dramas like NCIS, Law and Order, and Blue Bloods are particularly popular among TV viewers, but they're often criticized for inaccurately portraying certain aspects of the criminal justice system. Studies show that these kinds of shows have the potential to desensitize viewers to police misconduct, make them more fearful of crime, and raise jurors' expectations of the forensic evidence they expect to see in a criminal trial. In your view, what are the potential dangers of watching too many crime shows?

No doubt, watching a lot of crime shows or films with violence makes it easier to tolerate those images over the long term. Scholars of popular culture and communications will tell you that culture is constitutive—it shapes us. Insofar as police serials and violent films are part of our culture, they provide a vocabulary and mold expectations for civil society. That said, however, audiences distinguish between Law & Order and the short video of a police encounter disseminated through the news outlets. Do people watch Judge Judy and think most judges behave like that or that her courtroom is like one they'd encounter if bringing a lawsuit or defending one? I doubt it, but certainly her character as a judge on television is part of the cultural fabric that informs the kind of judging and the kind of courtroom one imagines as possible. Likewise, the images we see in television serials and films of police officers, detectives, judges, and lawyers are both idealized and nightmare versions of the real thing. They set a boundary of possibilities. But that has always been the case of art, be it popular, elite, or fringe. The key as an audience and for society at large is to engage the depictions in terms of our own ethical and moral commitments. Often times, these images

come with their own critique, and so it is up to audiences to be their own cultural critics.

In 2008, the ABA Journal, the flagship publication of the American Bar Association, asked 12 prominent lawyers who teach film or who are connected to the industry to name the best legal films ever made. To Kill A Mockingbird came out on top, followed by 12 Angry Men and My Cousin Vinny. What film or TV show do you think most accurately depicts the nuances of the law, particularly when it comes to the courtroom process? On the flip side, what movie or show distorts the law to the most extreme degree?

I like the film Rashomon for the point that multiple eyewitnesses can tell conflicting stories and that law is not about a truth but about a fair process for managing conflict in society. It was directed by the famous Japanese filmmaker Akira Kurosawa, whose style of telling the story from multiple viewpoints has become a staple for suspense and drama in many legal films. Rashomon is an intricate film, both in terms of its style and story. By contrast, most films distort or exaggerate legal processes by focusing on particular parts (e.g., the courtroom trial) and not others (e.g., discovery and fact investigation) at the expense of simplifying the substantial complexity of our legal system. Few films or TV shows about law depict with any accuracy the everyday life of a lawyer largely because lawyers spend most of their time reading, writing, and engaging colleagues or clients on the phone or in person. That would be a very boring film. But I don't judge films or television shows by their "accuracy." Instead, I love studying film and other popular depictions of law for what it can teach us about what we hope for our system of equal

justice under the law, what can be improved and what we should celebrate.

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