Law and Justice on the Small Screen

Peter Robson
Jessica M Silbey

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Law and Justice on the Small Screen

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LA W AND JUSTICE ON THE SMALL SCREEN

Law and Justice on the Small Screen is a wide-ranging collection of essays about law in and on television. In light of the book’s innovative taxonomy of the field and its international reach, it will make a novel contribution to the scholarly literature about law and popular culture. Television shows from France, Canada, the United Kingdom, Germany, Spain and the United States are discussed. The essays are organised into three sections: (1) methodological questions regarding the analysis of law and popular culture on television; (2) a focus on genre studies within television programming (including a subsection on reality television), and (3) content analysis of individual television shows with attention to big-picture jurisprudential questions of law’s efficacy and the promise of justice. The book’s content is organised to make it appropriate for undergraduate and graduate classes in the following areas: media studies, law and culture, socio-legal studies, comparative law, jurisprudence, the law of lawyering, alternative dispute resolution and criminal law. Individual chapters have been contributed by, among others: Taunya Banks, Paul Bergman, Lief Carter, Christine Corcos, Rebecca Johnson, Stefan Machura, Nancy Marder, Michael McCann, Kimberlianne Podlas and Susan Ross, with an Introduction by Peter Robson and Jessica Silbey.
Law and Justice on The Small Screen

Edited by
Peter Robson and Jessica Silbey

OXFORD AND PORTLAND, OREGON
2012
Acknowledgements

This book is a labour of friendship, born of a mutual conviction that law, and its goal of justice, has much to learn from popular culture. We have been friends through the interdisciplinary law and film circles for many years. However, it was not until 2009 that we decided to work together to produce a collection of essays on law and TV to offset the focus on law and film. We decided to not just approach those whom we knew were interested and working in this area, but to spread the net wider to involve those who had not published in this area before. We are glad we did. As Stella Bruzzi reminded us in her December 2011 review of *Film and the Law: The Cinema of Justice* (Greenfield, Osborn and Robson) published in the journal *Law and Humanities*, TV forms a significant part of the teaching in courses on popular culture. It has, however, hitherto been underrepresented in the published law and culture scholarship. We seek to redress this imbalance. Attention needs to be paid to the ‘small screen’, which is, we believe, exceptionally powerful in shaping expectations and desires about law and justice. We thank the contributing authors who patiently took each step with us, from the call for papers to final submission. Thank you all for sticking to the deadlines we imposed. Your work brings the value to this book. Thanks also go to the anonymous reviewers who helped us select and guide the final versions found in this collection. We could not have finished this book without the exemplary copy-editing help from three superb Suffolk University Law Students: Daniel Morten-Bentley, Patrick McDonough and Christopher Siterman. All three will be first rate lawyers in light of their persistent efforts and acute attention to language. Thank you Dan, Patrick and Chris. Finally, we would like to thank our friends at Hart Publishing. We are grateful for your patience and support.

*Peter Robson, Glasgow, Scotland*

*Jessica Silbey, Boston, United States*

*November 2011*
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Contributors


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Lief H Carter taught at the University of Georgia from 1973 to 1995. Before going to Georgia he received college and law degrees from Harvard, served in the Peace Corps in Bolivia, and earned his PhD at the University of California, Berkeley. He served as Colorado College’s McHugh Distinguished Professor from 1995 to 2004. Professor Carter has published major texts in constitutional law, legal reasoning, and administrative law. He was the first faculty member at the University of Georgia to receive the top award for teaching in two different years, and he won the 2010 national award for teaching and mentoring in law and politics from the American Political Science Association. Lief has served as visiting professor at Brown University and the University of Washington. In 2001 he was a scholar in residence at the Rockefeller Foundation’s Bellagio Center in Italy. He has an avid amateur interest in classical music.

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Rebecca Johnson is a Professor of Law at the University of Victoria, British Columbia, Canada. After laying her educational roots in Music, Law and Management (BMus, LLB, MBA), she was a law clerk to Madame Justice Claire L’Heureux-Dube at the Supreme Court of Canada. She received her LLM and SJD from the University of Michigan. She has taught courses in the areas of constitutional law, criminal law, legal theory, legal method, business associations, and law and film. A law and society scholar, she frequently finds herself drawn to the practices of power operating at the intersection of law and culture. Recent projects focus on: the relationships between reason, passion and the law in judicial dissent; sexuality as a flashpoint in conflicts around religious diversity; and the linkages of capitalism and informal colonialism in the economic imaginary. She is one of the co-editors of Storied Communities: Narratives of Contact and Arrival in Constituting Political Community (UBC Press, 2011).

Ummni Khan is an Assistant Professor at Carleton University, Department of Law. Her research focuses on the overlapping ways that sexuality, gender and the racialised body are constructed, policed and put into discourse in law and culture. She has published articles on the socio-legal construction of sexual deviancy, transgendered subjects, and media and pop cultural representations of law. She is currently completing a book that comparatively analyses the construction of sadomasochism in law, psychiatry, film and feminism.

Freya Kodar is an Assistant Professor at the Faculty of Law, University of Victoria, British Columbia, Canada. Her research, writing and teaching focuses on the regulation of debt and credit, pension law and policy and tort law.
Anita Lam is an Assistant Professor of Criminology at York University. She recently completed her doctoral work at the University of Toronto, where her dissertation research examined the television production of Canadian crime dramas through the lens of actor-network theory. Her previous work has appeared in *Cinéaction*, and the *Canadian Journal of Criminology and Criminal Justice*.

Anja Louis is an Associate Lecturer at Sheffield Hallam University and Honourary Research Fellow at the University of Sheffield. She specialises in the interdisciplinary field of law and culture in the Hispanic world. Her book *Women and the Law: Carmen de Burgos, an Early Feminist* (Tamesis Books, 2005) analyses the representation of law in the work of the Spanish feminist Carmen de Burgos (1867–1932). Dr Louis’ research interests lay in the field of Hispanic Cultural Studies, in particular the inter-face of law and culture, gender studies, and popular culture. Her current research project examines the representation of lawyers in Spanish film and television. Recent publications include ‘Whatever Next: Women’s Rights in Sáenz de Heredia’s *Los derechos de la mujer*’ (*Bulletin of Spanish Studies*).

Stefan Machura has worked at Bangor University, North Wales since 2006. In 1995, he started teaching classes on law and film at the Ruhr-Universität Bochum (Germany) and conducted empirical research on the interplay of direct experiences with law and media influences. Furthermore, he is interested in the lessons lay people and legal personnel take from interacting with another. As part of this, he has surveyed lay judges in Germany and Russia, as well as experiences of students, defendants and citizens generally with lawyers, courts and the police in Germany and the UK. His latest empirical study addresses multi-agency cooperation in safeguarding children. His book publications include: *Procedural Justice* (with Klaus F Röhl) (Ashgate, 1997); *Law and Film* (with Peter Robson) (Blackwell, 2001); *Ehrenamtliche Richter in Südrussland* (with Dmitrij Domskow and Olga Litvinova) (Lit 2003) (on Russian people’s judges); *Politik und Verwaltung* (Verlag Für Sozialwissenschaften 2005) (on the interplay of politicians and administration in Germany); *Ehrenamtliche Verwaltungsrichter* (Lit 2006) (on lay assessors at German administrative courts); *Understanding Law in Society* (with Knut Papendorf, and Kristian Andenæs) (Lit 2011).

Nancy S Marder is Professor of Law and Director of the Jury Center at Chicago-Kent College of Law. She is a graduate of Yale College, where she majored in English and Afro-American Studies, and holds an MPhil from Cambridge University, where she was a Mellon Fellow. She received her JD from Yale Law School, where she was an Articles Editor of the *Yale Law Journal*. Professor Marder has clerked at every level of the United States federal court system, including a two-year clerkship with Justice John Paul Stevens at the US Supreme Court (1990–92). Professor Marder has written numerous articles, essays, and book chapters on juries, judges, and courts. Her articles on juries have appeared in law reviews such as *Northwestern University Law Review*, *Texas Law Review*, and *Southern California Law Review*. She has also contributed book chapters on law and literature and law and television. Professor Marder also writes on law and film, and organised a law review symposium on the 50th Anniversary of ’12 Angry Men’. Professor Marder has presented her work at many conferences and symposia in the United States and abroad and regularly teaches law school courses on Legislation, Juries, and Law & Literature.

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Dr Angus Nurse is Visiting Lecturer in Criminal Investigation at Birmingham City University where he teaches and researches criminology and criminal justice. He was Research Fellow at the University of Lincoln’s Law School from January 2008 until October 2011, researching civil justice systems, criminal justice and human rights, and teaching in constitutional law and human rights on the University’s LLB and LLM with Criminology degrees. Prior to this, Angus was an Investigator for the Commission for Local Administration for England (the Local Government Ombudsman) from February 2000 to January 2008. He is a graduate of the University of Leicester with a Master’s degree in Criminal Justice Studies, has a PhD in criminality and criminal justice policy from Birmingham City University, and a BA (Hons) in Humanities with Literature from the Open University. Angus has research interests in criminality, crimi-nal criminal justice, anti-social behaviour and green criminology. He is particularly interested in the nature of criminality and the reasons why people commit crimes; the enforcement of wildlife and environmental law; and representations of crime and criminal justice in the media, cinema, and television. Angus has also researched and published on the links between violence towards animals and human violence.

Kimberljaune Podlas is an Associate Professor at the University of North Carolina at Greensboro who teaches primarily Media Law, Television Appreciation, Intellectual Property and Production Law. Her research attempts to build both an empirical and theoretical foundation for understanding the relationship between law and pop culture, specifically television (eg, *CSI, Judge Judy, South Park*). Her research also considers emerging legal issues pertaining to entertainment media. Not only has she seen attorneys on TV, but she is one—prior to joining academia, she practised criminal and appellate law in New York.

Dr Sara Ramshaw is a Lecturer in Law at Queen’s University Belfast. She obtained both her LLB and LLM from the University of British Columbia in Vancouver, Canada. She clerked at the Ontario Court of Justice (General Division) in 1998–99 and was called to the Bar of the Law Society of Upper Canada in 2000. She then worked as a Research Lawyer at the Superior Court of Justice, Family Court in Ontario before commencing postgraduate studies at Birkbeck School of Law, University of London, England. Her doctoral thesis, completed in 2007, examined the legal regulation of
jazz musicians in New York City (1940-67) through the lens of post-structural theory informed by feminism, race theory and musicology.

During the 2008-09 academic year, Sara was a Post-doctoral Fellow with the Social Science and Humanities Research Council of Canada (SSHRC) Major Collaborative Research Initiative (MCRI) Project, Improvisation, Community and Social Practice (ICASP) in partnership with Centre de recherche en éthique de l’Université de Montréal (CREUM), Montréal, Québec, Canada. For more information on this research project, see www.improvcommunity.ca. In September 2009, Sara joined the ICASP project as a Research Associate and a member of the Research Website Editorial Board.

Peter Robson has an LLB from St Andrews University and a PhD from Strathclyde University. He is solicitor and sits as a judge in the Appeals Services dealing with disability issues. His principal professional work is in Housing Law on which he has published extensively. He has been Professor of Social Welfare Law at the University of Strathclyde since 1992. In the past decade he has extended his early focus, writing on legal theory and sociology of law from the work of judges into coverage of how popular culture affects the practice of law. In addition, he has developed undergradu-
te and postgraduate courses on Law, Film and Popular Culture which he has taught in Universities in Scotland, Portugal, Spain and Argentina. He has written widely on law and film in journals and edited collections including co-editing Law and Film (with Stefan Machura) in 2001. His most recent work (with Steve Greenfield and Guy Osborn), Film and the Law: The Cinema of Justice, was published in 2010 and updates the influential 1st edition. He has authored essays on British lawyers on TV and is completing a book on TV lawyers. He has recently started to examine law and the theatre.

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Cassandra Sharp is Senior Lecturer in the Faculty of Law at the University of Wollongong. She has a combined Bachelor of Arts (English Literature)/Bachelor of Laws (Hons) and a PhD from the University of Wollongong. Cassandra’s primary research interest lies within the broad field of law and popular culture. In particular, her PhD explored the transformation process of first year law, and the use of popular stories by students in constructing identity. Of further interest is the way in which understandings of ethics are challenged or maintained through popular stories of law. In addition to teaching the core subjects of Foundations of Law, Contracts and Honours Research, Cassandra found much enjoyment from developing and teaching the inaugural Law and Popular Culture elective in the Faculty of Law in 2010. Cassandra’s ongoing projects include exploring public ideas of justice; media reporting of sentencing; and the superhero phenomenon.

Jessica Silbey is a Professor of Law at Suffolk University Law School in Boston. She received her BA from Stanford University and her JD and PhD (Comparative Literature) from the University of Michigan. Professor Silbey's scholarship primarily engages in a cultural analysis of law. She writes within the interdisciplinary of law and film, exploring how film is used as a legal tool and how it becomes an object of legal analysis in light of its history as a cultural object and art form. Questions she addresses in her research are: How does automated surveillance film become testimony in a court of law? How do cultural perceptions about film affect its evaluation by jurors, advocates and judges? How might legal actors and lay citizens mobilise the audiovisual technology of our twenty-first century to further the promises of our justice system? Professor Silbey is also currently working on a book to be published by Stanford University Press about intellectual property law, investigating common and conflicting narratives within legal institutions and private organisations that explain intellectual property protection in the United States. She is especially interested in the connections between cultural narratives of creation, discovery, incentive and labour and their legal counterparts in cases, statutes and litigation. Professor Silbey teaches courses in intellectual property and constitutional law.

Marilyn Terzic is an international award-winning, interdisciplinary scholar. She has authored numerous articles examining the dynamic interplay between the theories of perception, cognition, and composition as it relates to the design of and viewers’ responses to persuasive communications. She also maintains an interest in media policy and law.

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Mark Tunick is Professor of Political Science and Associate Dean at the Wilkes Honors College, Florida Atlantic University, where he teaches political theory and constitutional law. He is author of several books and articles on political and legal theory, including Hegel’s Political Philosophy, Punishment: Theory and Practice, and Practices and Principles: Approaches to Ethical and Legal Judgment. He has also written articles on topics including privacy, property, and the political theories of Hegel, Kant, and JS Mill, and is currently working on a book about privacy and free speech. He received BS degrees in Political Science and Management from Massachusetts Institute of Technology and his PhD in Political Science from the University of California, Berkeley.
Tung Yin is Professor of Law at Lewis & Clark Law School, where he teaches courses in criminal procedure, national security law, terrorism and the law, and federal criminal law. His academic research has focused primarily on the domestic legal issues arising out of the United States’ prosecutorial and military responses to the 11 September 2001 terrorist attacks. Although he recognises the sheer implausibility of 24, he confesses to having been an avid fan of the show during its run on Fox.
Scholarship on law and television has developed slowly over the past 30 years. It began alongside the study of film and law, but its trajectory and import differ in significant ways. This Introduction provides both an overview of the earlier work on law and television and context to the current collection of essays.

There are several putative beginnings to law and television scholarship, all dating to the 1980s. The early work of both Stewart Macaulay and Lawrence Friedman featured the role of television in the development of popular legal culture. Their influential essays form the starting point for the study of popular culture in shaping the public’s conception of the law. Around the same time, studies of Perry Mason complemented those describing the popularity of the pioneering legal drama LA Law. Others explored television’s role in conceptualising law in the modern era. Steven Stark’s 1987 article, ‘Perry Mason meets Sonny Crockett: The History of Lawyers and the Police as Television Heroes’, is emblematic and examines the substantial amount of ‘law and order’ oriented programming on American television in its first 30 years as a mass medium of entertainment. By 1990, a mere three years later, one finds the majority of scholarship on law in popular culture focused on television. However, by the beginning of the new century the emphasis switched to film, with only modest contributions in the late 1990s to the study of law and justice on the small screen.

In the twenty-first century comparative law and television scholarship grew, with studies of law and justice on television in Canada,7 France,8 Australia9 and the United Kingdom.10

Television was not always its own object of study in the interdisciplinary field of law and popular culture. Media departments and cultural studies programmes today, however, study television as a unique medium with its own representational systems, production mechanisms and distribution channels. The beginnings of the law and culture field did not treat television differently from film and literature.

I. Overview of Law and Television Studies

The earnest study of law and popular culture began in the mid-1980s with its mixed focus on literature, film and television. Out of the law and literature movement the interdisciplinary field of ‘law in culture’ studies rose, which soon evolved into a study of law and popular culture, including both film and television. Over the last 20 years, there has been an explosion in the number of books, edited collections and individual essays devoted to law and popular culture. The vast majority of these have centred on film. Since 1996, more than 16 monographs have been written in the field of law and film, and over a dozen edited collections or special journal editions have been published. (See the references at the end of this Introduction.) Conspicuously absent from the larger body of this more recent scholarship, however, is a focus on television.

While scholarship on law and film has flourished, there has been relatively little published on lawyer and legal processes on the small screen. Even in light of the major developments in Spain, where cultural images of law have been examined in extensive detail under the heading ‘cine y derecho’,11 that work has neglected the broader ‘cultura popular y derecho’ and television representations do not feature prominently. The same is true for French and German scholarship. This dearth of scholarship devoted to television in the law and popular culture field is ironic. Television reaches the vast majority of the population. It is more democratic in its processes and distribution mechanism than film. It provides news, dramas, documentaries and comedies seven days a week, 24 hours a day. Cinema, the pre-eminent source of mass entertainment since the early 1920s, is on the decline. Visiting the cinema is now a luxury and is reserved for a relatively small population of Western audiences. The rise of television as the dominant source of entertainment and information, in light of the world’s growing focus on the rule of law and international relations, demands consideration in the law and culture scholarship. Robust studies of law and television will complement

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law school courses on law and literature, law and film, and law and popular culture more broadly.

Most television scholarship about law focuses on the police and prison system and not on legal processes or lawyering.12 This is likely because the adjudication phase of law, with its lawyers and courts, does not feature in the vast majority of police or prison television dramas. The separateness of the trial process from detention and imprisonment is a consistent feature of a considerable body of programmes in Britain and the United States. One result of this separateness is that lawyer shows rank as a mere sub-genre in the field of legal television studies and criticism. The present volume seeks to begin filling that gap with several chapters focusing exclusively on the adversarial process and/or the ‘lawyer-as-character’ on television.

There may be legitimate institutional and material reasons for both the dearth of scholarship on legal television programming and for a growing future in the area. As discussed elsewhere in greater detail,13 practical problems exist in assembling the material. Given this, scholars have frequently worked on individual shows that were accessible on video.14 As far as the British and American series are concerned, easy access to material up to the present day has been limited. Only two of the pre-2000 British fiction-based law-oriented shows appeared in video/DVD format until very recently.15 Unfortunately, tapes of the vast majority of the programmes from 1958 to the present day have been destroyed or are only available at considerable cost. The same appears to be the case in the United States and Canada. At the time of writing, programmes such as The Defenders, LA Law or Petrocelli appear to be unavailable. Although these are not insuperable obstacles,16 they reinforce the unarticulated hierarchy in cultural products in which television comes after literature and film.17

Television programming has become more available in the DVD era and more recently shown series are now easier to access. Availability is, however, patchy. Despite these hurdles, there has been a slow and partial recognition of the significance of television in this area.18 Now, with the expansion of digital channels, the rise in sales of DVD players and ‘home cinema’ devices, there are fruitful possibilities for more widespread viewing and research. Whether or not scholars of the law and legal system

12 See Nicole Rafter, Shots in the Mirror (Oxford, Oxford University Press, 2006).
15 These are Rumpole and Kavanagh QC. By contrast, four of the many other shows have gone to DVD, eg, Judge John Deed, Outlaws, New Street Law and Kingdom. The pioneering series Law and Order (1978) (no relation to the American series) is also now available.
16 Robson, ‘Lawyers and the Legal System on TV’ (n 10).
17 There is also the question of volume. The sheer quantity of material even in the most modest series is huge, and for some a barrier to research. Typically, even a modest run of a series involves a dozen one-hour episodes. The attraction of looking at a single two-hour film as opposed to at least 12 and possibly 40 hours of television programming may be irresistible. Yet anyone wishing to undertake a serious study of any series is required to undertake a longitudinal study of the series. Many chapters in this volume accomplish this Herculean task.
18 See Elayne Rapping, Law and Justice As Seen on TV (New York, New York University Press, 2003). See also: Villez, Sérés Télé: Visions de la Justice (n 8); Robson, ‘Lawyers and the Legal System on TV’ (n 10); Robson, ‘Developments in Law and Culture’ (n 13); Michael Asimow, Lawyers in Your Living Room!: Law on Television (Washington DC, American Bar Association, 2009).
II. Contrasting Theoretical Approaches to Lawyers in Popular Culture

The scholarly approach in law and film studies varies, and this diversity informs the structure of the current volume. There is the ‘law-in-film’ approach, which is primarily concerned with the ways in which law and legal processes are represented in film. The ‘law-in-film’ approach considers film as a jurisprudential text by asking how law should or should not regulate and order our worlds by critiquing the way it does so in film. Whether the filmic legal practice is accurate interests a range of writers from Bergman and Asimow to James Elkins. Others are concerned with the relationship between the law and its operative social context, tracing the changes in emphasis as regards both the lawyers depicted in the film and the kinds of socio-political framework operating within and beyond the film. Hence, the emergence of women as protagonists in courtroom dramas has been of interest to a considerable body of scholars, especially for the light these changes in cultural representations may shed on changing sexual politics in the late twentieth and early twenty-first century.

There is also a ‘film-as-law’ approach, which asks how films about law constitute a legal culture beyond film. This approach pays special attention to film’s unique qualities as a medium and asks how its peculiar ways of world-making shape our expectations of law and justice in our world at large. Writings in the ‘film-as-law’

20 Asimow, *The Lawyer in Your Living Room* (n 18).
21 Ibid.
23 See (for reading ‘law films’ as feminist critiques of power struggles in law to imagine a more inclusive and compassionate legal order) Orit Kamir, *Framed: Women in Law and Film* (Durham, Duke University Press, 2006).
27 Cynthia Lucia, *Framing Female Lawyers: Women on Trial in Film* (Austin, University of Texas Press, 2005).
28 See Jessica Silbey, ‘Patterns of Courtroom Justice’ (2001) 28 *JL&S* 97. See also (showing how the genre of ‘the female lawyer film’ both emboldens and undermines women’s authority in law and society)
INTRODUCTION

They also tend to look closely at film’s capacity to persuade us of a particular view of the world, to convince us that certain people are good or bad or guilty or innocent by positioning the audience as the judge or jury. As Ruth Buchanan and Rebecca Johnson, in their ‘film-as-law’ scholarship, saliently explain:

"Viewers are actively positioned by film to identify with certain points of view; to see some groups of people as trustworthy, dangerous, disgusting, laughable; to experience some kinds of violence as normal; to see some lives as lightly expendable."

Thus, by this latter approach, film and law are compared as epistemological systems, formidable social practices that, when combined, are exceptionally effective in defining what we think we know, what we believe we should expect, and what we dare hope for in a society that promises ordered liberty.

Moving from the big screen to the small screen should be an inevitable step for legal scholars working within either of the above-mentioned approaches. Betting that the sheer ubiquity and influence of television ought to attract those interested in the impact of popular culture on legal (or other socio-political) systems, we embarked on collecting the essays for this volume.

III. Noteworthy Television and Law Books of the Past

Several books about law on the small screen deserve mention before setting out the structure of the present book. *Prime Time Law* was an early examination of television lawyers and legal procedure. A main interest of this collection by Robert Jarvis and Paul Joseph is its spotlight on television lawyers. It consists of 17 essays written by a combination of academic lawyers, historians and specialists in the media. Eleven essays focus on individual shows that span four decades of television: *Perry Mason*, both versions of *The Defender* (both from the 1960s), *Paper Chase* and *Rumpole of the Bailey* (from the 1970s), *Matlock*, *LA Law* and *Hill Street Blues* (from the 1980s), and *NYPD Blue*, *Murder One*, *Picket Fences* and *Law and Order* (from the 1990s).


29 Silbey, ‘Patterns of Courtroom Justice’ (n 28).
33 Jarvis and Joseph, *Prime Time Law* (n 6).
34 In *Hill Street Blues*, *NYPD Blue* and *Murder One* lawyers make only limited appearances. These would be more accurately described as ‘police shows’ rather than ‘lawyer shows’.
The subjects of the essays varied from the social themes (love triangles and work life) to the pursuit of justice through lawyering and detective work. The contribution of the individual essays to the field of ‘law and television’ studies was initially limited to considerations of the changes over time in the content of certain programmes or, in some cases, across programmes and genres.

Elayne Rapping’s _Law and Justice: As Seen on TV_ is a sustained argument on the representation of legal process on television and its interrelationship with social justice more broadly. Therein, she examines the wide-ranging and diverse law-related programmes from the 1940s to the present, touching especially on the advent of televised trials in the United States. She also focuses on _Law and Order_ specifically, as well as some of the more notorious trials of the past three decades (including that of OJ Simpson and the Menendez brothers). Rapping argues that the public consumption of law in the forms it has taken on television (mostly crime shows, whether fictional or not) implicates the political growth of the conservative right in the United States. Hers is a trenchant and vigorous critique of the social construction of the legal imagination through popular culture.

Barbara Villez’s _Television and the Legal System_ is principally a survey of television shows in the United States spanning the decades since the 1960s. She categorises the decades in terms of their programming content, describing the individual case-focused dramas of the 1960s and 1970s as depicting lawyers who are ‘guardian angels of the law’. The shows of the 1980s, such as _LA Law_, focused more on the lawyer’s professional office life and the relationships between lawyers and paralegals. What Villez calls the final ‘third generation of television lawyer[s]’ centres on the personal and professional lives of female lawyers, as originally exemplified by shows such as _Ally McBeal_ and _Judging Amy_, a short list to which one might now also add _Damages_ and perhaps _Fairly Legal_. Villez’s contribution to the literature is significant, but it does not describe a universal phenomenon and is limited to the United States.

These seminal works aside, recent empirical work on popular attitudes towards law and lawyers based on television and other media suggest that interest in popular culture and law is growing. In this research, however, an emphasis on film remains and television still plays a mere tangential role. The current volume about law on

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35 Rapping, _Law and Justice As Seen on TV_ (n 18).
36 First published in French under the name _Séries Télé: Visions de la Justice_ (n 8).
37 Ibid 37.
38 Ibid 48.
39 Ibid 54.
40 Robson, ‘Lawyers and the Legal System on TV’ (n 10) 340.
41 See Kimberlianne Podlas, ‘The CSI Effect—Myth and Reality’ (paper delivered at Annual Meeting of the Law and Society Association, Baltimore, July 2006). See also Robson, ‘Lawyers and the Legal System on TV’ (n 10) and ‘Developments in Law and Popular Culture’ (n 13).
42 However, there are two exceptions: (1) a transnational study conducted in Argentina, Australia, England, Germany, Scotland and the United States where we looked at the sources of students’ perspectives on various aspects of justice, M Asimov, S Greenfield, J Guillermo, S Machura, G Osborn, P Robson, C Sharp and R Sockloski, ‘Perceptions of lawyers: a transnational study of student views on the image of law and lawyers’ (2005) 12 International Journal of the Legal Profession 407, and (2) a similar empirical study inquiring of first year law students as to their knowledge of the cinema of justice, television lawyers and role models in film, television and literature, V Salzmann and P Dunwoody, ‘Do Portrayals of Lawyers Influence How People Think About the Legal Profession’ (2005) 58 Southern Methodist University Law Review 411.
the small screen aims to fuel both the interpretative and empirical work on television programming and its various relationships to our national justice systems.

IV. Theoretical Perspectives on Television and Law Studies

In this book we sought to take stock of the diversity of approaches to the study of law and television, and to craft a preliminary taxonomy that enriches analysis in the field. The structure of this volume is not the only way to account for the field of ‘law and television’ studies, but in light of the field’s history and its major contributors thus far, we thought it sensible to build on the founding texts and to derive some broader categories in which to delve more deeply.

Building on some of the earlier empirical and historical work on television production and media reception, Part I of this book investigates the method and context of doing law and television scholarship. All five authors included in Part I approach the question of ‘doing law and television scholarship’ from slightly different angles, but each is uniquely interested in the ‘how’ of television rather than the ‘what’ of its programming. These essays make some of the most unique contributions to the field, and it is for this reason that we have put them at the beginning of the book.

Part II builds on the formidable scholarship of the past that investigates television genres as a mechanism for understanding the programme’s meaning and impact. The first section of Part II contains four essays that bring the field into the twenty-first century, evolving understandings of past law and television genres for a contemporary audience. Taunya Banks’ piece investigates race and gender in cable television shows about law. Hers is an inquiry into the transformation of the primary television format, from network broadcasts to cable-based programming, and the complex and crucial categories of identity (vis-à-vis race and gender) as they are there represented in fictional stories about law. Paul Bergman explores what he calls ‘rape-centred’ law and justice television shows to analyse whether the period of law reform directed at prosecuting rape cases more effectively (the 1980s and 1990s) was reflected in or reinforced by the popular media representations of criminal rape cases. Christine Corcos identifies a new American genre of television show about law: psychic detective dramas, whether they be fictional or reality-based. Her chapter explores these shows in detail, offering theories on the reasons behind their popularity and their relationship to the rise in scientific evidence’s role in establishing legal-truth claims, and in offering the added dimension of scientific authentication to the legitimacy of legal verdicts. Tung Yin explores yet another new American law and justice television genre: the terrorism thriller. His chapter focuses generally on the content of these newly popular shows since 11 September 2001, and also more specifically on the characterisation of lawyers within the stories. Yin compares the (mostly negative) characterisation of criminal defence lawyers in these shows with real life examples of lawyers involved in real-time counterterrorism operations as a way to critique and challenge the portrayal of lawyers in this new genre of television programming.
The second section of Part II focuses exclusively on one genre of law and television programming: ‘reality TV’. Although ‘reality TV’ as it relates to law has been around in the United States at least since trials were first televised in the early 1980s, the explosion throughout the world of court television and reality police shows in the late 1990s and the 2000s implies more than a trend, it is an obsession. These chapters exemplify the diversity in ‘reality TV’ programming today. In her chapter, Nancy Marder analyses six ‘courtroom reality’ shows during a week of programming in the Chicago metropolitan area. Marder conducts a qualitative and quantitative content analysis of these shows to draw conclusions about the character and role of television judges as they relate to our understanding of actual judging and courtroom practice. Marilyn Terzick also writes about ‘courtroom TV’, but focuses solely on the wildly popular Judge Judy in the United States. Terzik’s approach contrasts with Marder’s in that she investigates the process of ‘message design’ in the television aesthetic, that is, the ‘manipulation and planning of signs and symbols that can be produced for the purpose of modifying the cognitive or affective behavior of viewers’. Indeed this chapter, combined with Marder’s, forms a vibrant and contrasting pair of essays on reality court television.

Freya Kodar uses empirical and historical methods to analyse the reality television show Til Debt Do Us Part, which airs primarily in Canada and is about debt management. Kodar’s analysis situates this new reality television show within the context of ‘reality’ law shows as well as game shows, the latter of which clearly have a much longer pedigree than courtroom television shows do. Despite the obvious differences in the content and context of this type of show from the two previous examples, Kodar’s analysis parallels many of the others in the book by exploring, at its conclusion, the role of television (especially ‘reality’ television) in constituting popular notions of responsibility and legal and social fairness, as well as the role of the State in promoting national welfare.

Mark Tunick analyses a new genre of reality television that combines twenty-first century surveillance and communication techniques to target criminal predators. Tunick’s analysis of the four years of To Catch a Predator contains in-depth content analysis of the programming, as well as a critical examination of the role of surveillance tactics—including those involving television—in the criminal justice system. This chapter is both an examination of a particularly horrifying feature of our criminal justice landscape, as well as a trenchant analysis of the complicity of television and television viewing in exacerbating the social ills the programme claims to be exposing.

Stefan Machura brings the discussion to Germany, where he analyses the lengthy history of ‘courtroom television’ in that country from the 1960s to the present. Machura is particularly interested in the changing trends of that programming as it relates to the commercial pressure on television broadcast companies to increase their audiences. Indeed, he notes a trend in the programming that is also reflected in the other chapters in this section: the legal conflicts have grown exaggerated over time but the image of the judge as revered legal hero who brings peace and order has not. Ultimately, however, whether or not we can call this patterning ‘reality-reflective’ or ‘reality broadcasting’ is the focal question underlying the analytical framework of all the contributions included in this section.
Part III returns to the roots of law and television scholarship. The essays in this last section focus on individual shows in order to examine contemporary themes of law and justice. The innovation of this last section is threefold. First, these chapters are the most international of the volume, focusing on programmes from Canada (Ummni Khan, Jennifer Schulz), Spain (Anja Louis), and the United States (Annette Houlihan, Sara Ramshaw). Second, these chapters focus on the particularly contemporary manifestations of legal programmes: national identity in a world with increasingly blurry national boundaries, alternative dispute resolution, terrorism and law (Ryan Thomas and Susan Ross, Jennifer Schulz), vigilant justice in societies with decreasing levels of social welfare (Sara Ramshaw), and the relationship between surveillance powers and law enforcement (Angus Nurse). Third, as compared to the other sections of the book, a larger number of the authors in Part III are new to the field of ‘law and popular culture’ studies, some of them engaging in ‘law and television’ scholarship for the first time.

So, in short, to those who have recently joined the conversation, welcome—we are proud to have your work in this volume. To the others who have returned to contribute to scholarship about law and popular culture, we thank you for joining us in this particular volume on law and justice on the small screen.

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