

The Wire

Crime, Law, and Policy

Adam M. Gershowitz

PROFESSOR, WILLIAM & MARY LAW SCHOOL



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This book has not been endorsed or authorized by HBO or the creators of *The Wire*.

To Laura, for letting me watch and discuss The Wire incessantly

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Preface

“Whatever it was, they don’t teach it in law school.”¹

— Assistant State’s Attorney Rhoda Pearlman, reacting to
how the prosecution had just lost a huge trial.

Criminal law professors have described *The Wire* as “the greatest television series ever made.”² The show offers brilliant character development and a gripping drama, but it also does much more. *The Wire* highlights crucial legal and policy issues that are unfortunately absent from the law school curriculum.

On a doctrinal level, *The Wire* introduces us to the law of wiretapping, which is not covered in many criminal procedure courses. It also shows us the law of drug possession—a crime that is responsible for more than a quarter of the United States’ prison population,³ but which is almost never carefully analyzed in first-year criminal law classes.

The Wire also forces us to dig deeper into issues that are only addressed superficially in traditional law school classes. For instance, every criminal procedure student learns about informants when studying probable cause and the Fourth Amendment. But students are rarely asked to think hard about the benefits given to informants in charge reductions and sentencing discounts. And little attention is paid to the terrible harm that snitching can have on the informants and their communities. Most law students never consider, for example, in what circumstances police should be allowed to rely on juvenile informants and what protections they should afford to those children before sending them back into schools or onto the street.

The Wire also asks us to grapple with major public policy issues that drive the criminal justice system, but which are not suited to the case method that dominates most law school classes. For instance, should drug use be legalized, decriminalized, or simply ignored in some areas? Does the media have undue influence in directing the police toward certain neighborhoods and pushing arrests for certain types of crimes? Do officers manipulate the information in police reports in order to increase their clearance rates and improve crime statistics? Do states do an adequate job of helping prisoners to reintegrate into society after release? Although these issues are typically absent from most criminal law and procedure classes, they are front and center in *The Wire*.

Finally, *The Wire* deals with core legal issues, such as searches and seizures and confessions that are covered in law school classes, but forces us to confront them from a different perspective. Rarely do students take a step back to think about whether the police

1. *The Wire*, Season 5, Episode 7, at 53:15 minutes.

2. Susan A. Bandes, *And All the Pieces Matter: Thoughts on The Wire and the Criminal Justice System*, 8 OHIO ST. J. CRIM. L. 435, 445 (2011).

3. William J. Sabol et al., BUREAU OF JUSTICE STATISTICS BULLETIN: PRISONERS IN 2008, at 2 (2009), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf>, at 37 App. Tbl 15.

consider the Supreme Court's Fourth and Fifth Amendment jurisprudence to be legitimate. Even more rarely do students consider whether the police actually understand the search and seizure and confession rules that the Supreme Court asks them to comply with. And while there is a body of scholarship questioning whether the Supreme Court's criminal procedure jurisprudence is biased as a whole against the poor and minorities, it is unusual for students to focus on that big picture question as opposed to becoming mired in the thicket of Fourth and Fifth Amendment rules themselves. *The Wire* brilliantly shows us the bigger picture.

For all of these reasons, *The Wire* is a perfect vehicle for thinking about the most important criminal justice issues of our generation. The goal of this textbook is to supplement *The Wire* with the doctrinal law that applies to the wiretapping, drug possession, search and seizure, confession, sentencing, and other criminal law and procedure issues in the series. The book also seeks to offer a balanced analysis of the big-picture policy questions—such as drug legalization, prisoner reentry, resource allocation, media influence, police honesty, crime statistic manipulation, police brutality, and the use of informants—raised by the show. These are certainly not the only criminal law issues raised by *The Wire*. I have chosen these topics both for their importance as well as their absence from many traditional law school classes. By looking to cases, statutes, government reports, non-profit position papers, law review articles, and *The Wire* itself, students can see a fuller picture of the criminal justice system and its dysfunctions.

Because a textbook based on a television show is unconventional, a note on formatting is in order. Throughout the book, I have primarily excerpted cases, articles and other sources that address key issues raised by *The Wire*. Thereafter, in many of the notes, I have pointed to scenes from the series that encapsulate the issues or raise interesting discussion points. Because the scenes are sometimes lengthy I have cited to the beginning of the scenes, not the exact moment when a quote is spoken. For example, early in the book I encourage readers to watch *The Wire*, Season 1, Episode 5, at 11:20 minutes in order to consider a comment made by Stinger Bell. The scene begins at 11 minutes and 20 seconds into the episode, although Stringer's quote does not occur until about one minute later.

I have discussed *The Wire* with more people than I can count. I am sure I have forgotten many of them, but for helpful suggestions I wish to express my gratitude to Susan Bandes, Jeff Bellin, John Blevins, Zack Bray, David Dow, Brandon Garrett, Laura Killinger, Lee Kovarsky, Alex Kreit, Richard Leo, Nancy Leong, Paul Marcus, Michael O'Hear, Ellen Podgor, Michael Rich, Eli Silverman, Christopher Slobogin, Sandy Guerra Thompson, and Ron Turner. I also wish to thank Andrew Dao, Sarah Samuel, Courteney Taylor, Courtney Walsh, and Katherine Witty for helpful research assistance.

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