

# Episode 30: Law and Order: Civil Liberties Violation

When I am feeling tired and uninterested in watching anything that requires me to deeply care about character or plot, there is one thing that I turn to without fail. And that is the formulaic police procedural. Nothing is more soothing to me than the classic set up all of these shows follow – bad thing happens, good guy gets to work proving whodunnit, oh no there's a red herring, don't worry, good guy worked it out, bad guy has been caught, 'produced by Dick Wolf' flashes on the screen.

I mean... not all of them are produced by Dick Wolf but a lot of them are. Law and Order, Law and Order: Special Victims Unit, Law and Order: Organised Crime, Law and Order: Criminal Intent, Law and Order: Trial By Jury, Law and Order: LA, Law and Order: True Crime. The man's covered every single base. There's apparently also a Law and Order: Hate Crimes in the works. I can't wait to see how sensitively they deal with that in 45 minutes a week.

Anyway, despite them being complete garbage and obvious propaganda for police departments, I find their simple morality and quick resolutions extremely satisfying when I don't have the emotional bandwidth to deal with things that are actually well-written. Sometimes I don't want the plot to carefully unfold over the course of a season. Sometimes I need an immediate resolution. But over the last

couple of years, particularly in the wake of the Black Lives Matter movement, and with the rise of more allegedly socially-conscious cop shows Brooklyn Nine-Nine, I've found myself revisiting my relationship to these shows more and more. So, I thought we could take a look at them.

I'm Alex. This is Pop Culture Boner – the podcast edition, and today I'm thinking about police procedurals.

As I was gearing up to write this episode, I started thinking about the sheer number of police procedurals on TV. I made the joke about everything Dick Wolf has ever made in the opening of this episode, but he's far from the only example. CSI has a similar number of spin-offs, as does NCIS. And there are countless other examples of long-running variations on a theme – detectives with quirky personalities who solve crimes using some piece of genius specific to them, like heightened powers of observation, or incredible maths skills; forensic shows that focus on the scientific aspect of crime scene investigation; cops who solve cold cases using only their wits and their passion for the public. You can see where I'm going with this. There are a lot of police shows – every network has one, they tend to pull reliable numbers while they're on the air, and once they've run their course, they can be swapped out for something that is essentially

the same but with a different title for minimal effort.

According to the Hollywood Reporter, cop shows accounted for 22% of shows on American network television in the last decade, and that's not even including courtroom dramas, shows that included other first responders, shows about private detectives or spies, or shows where the main character was a law enforcement officer, but the central focus was outside their jobs. Law and Order and NCIS are two of the longest running shows on air, and in 2020 police procedurals accounted for seven of the top 15 most-watched scripted shows.

People love the genre, but it's facing something of a reckoning. Over the past few years, wider spread awareness of the overwhelming failings of the so-called justice system and increased visibility of the very real threat of police brutality has meant that the narrative of the good cop pedalled by police procedurals has come under the microscope. What's presented as 'good police work' on TV often details harassment, violence and threats in order to get results, and it's presented uncritically, even positively. In the wake of the Black Lives Matter protests, the Hollywood Reporter polled readers and found that 56% of respondents agreed that cop shows needed to change in order to more accurately reflect the realities of policing in the United States.

So, with that in mind, I thought we could take a look at the genre's origins, some of the content that these procedurals have been pedalling in recent years, why people respond to them, what (if any) changes they've made to self-reflect, and whether it's possible for the genre to

have a viable future while still retaining its easy formula. Let's get into it shall we?

Given that we've talked about the relationship between the American military and Hollywood on this podcast before, it may not surprise you to learn that the modern cop show was essentially invented and approved by the police force. Detective fiction had already gained steady popularity throughout the late 19th and early 20th Centuries, but most of the detectives in these novels were private investigators with special skills – think Sherlock Holmes types. They had no association with the actual police force, beyond setting criminals up for arrest using their superior brain power. Early depictions of actual police forces in American cinema were as Keystone Cops-types – bumbling idiots who could barely keep it together enough to stay upright, let alone solve actual crimes. That ridicule stemmed from a wide public understanding of police forces as corrupt gangs in the wake of the Lexow Committee, which had run in the late 1800s and had exposed the widespread corruption of the American police force. It found, amongst other things, that police promotions were payment-based, and those funds were largely received through the protection of vice businesses like brothels. The report was 10,000 pages long and found that police departments extorted around \$10 million a year from the public in New York State alone. With a reputation like that, it makes sense that early depictions of police were generally fairly unfavourable.

But following World War II, the police procedural surged in popularity. This was

partially driven by a changing relationship between Hollywood and the police force – there are a lot of wheels that can be greased by currying good favour with the police department, including making some of your biggest star's more illicit behaviour magically disappear. At the same time, a new film making style was gaining popularity with the movie-going public. Semi-documentary films slotted right in alongside the booming film noir genre, but they focused specifically on the depiction of real events and particularly, real crimes in great detail. Most of these films were produced in consultation with the police departments managing the cases, giving script writers and filmmakers access to case details and on-location shooting to authentically capture the story. In return, the police work involved with solving these crimes was carefully documented and shed a generally positive light on cops.

During the production of a semi-documentary film, Jack Webb, an actor in a supporting role, got the idea for *Dragnet*, which is widely considered to be one of the most famous procedurals of all time. It started as a radio play before being adapted for television, with each script being carefully reviewed by the LAPD's Public Information Division. Anything they didn't like, Webb immediately scrapped. The show paints an overwhelmingly positive picture of the LAPD. In 1951, the same year that *Dragnet* premiered on television, LAPD officers brutalised 7 people, five of whom were young Mexican American men, in an event which came to be known as Bloody Christmas. Fifty officers participated in a beating that lasted over an hour and a half and left all victims with ruptured

organs and broken facial bones. Over 400 people witnessed the attacks in some capacity, but following an internal cover up only 5 officers were convicted, and only one of those 5 received a prison sentence longer than a year. The main reason any action was taken at all was because there was significant campaigning by the Mexican American community to follow up on the assaults, as they had come in the wake of the Zoot Suit riots in 1943 in which the LAPD had deliberately stoked tensions between US Servicemen and Mexican-American youth, with the kids unsurprisingly bearing the brunt of the violence. Police brutality has always been like this, and obviously police procedurals have never been a neutral thing to put into the world.

The 21st Century police procedural follows much of the same framework that *Dragnet* laid down, in that most shows keep police consultants on staff to assist in adding that shiny veneer of authenticity to the script. Shows like those in the *Law and Order* franchise also tend to pull plotlines from topical crimes – possibly because most of those shows are so long-running it's probably hard to come up with anything original, but also because the precedent has been so widely set by the shows that came before it. *SVU* in particular has a tendency to very obviously draw its inspiration from contemporary crimes – so much so that there's a whole podcast dedicated to examining the actual events the show pulls from called *That's Messed Up*. Any time there's a college sexual assault story in the American news cycle, you can bet your bottom dollar that the show's fictional Hudson University is facing a similar incident.

To say that these shows never update types of crime they depict or how they depict it would be unfair. There are obvious social changes that have broad-scope impacts on how we talk about crime and punishment generally. To use SVU as an example again because it's the one I come back to most often, there's been really obvious updates to the way that the characters talk about victims of assault or abuse. I can remember early seasons of the show where detectives were discussing why women were taking risks by walking alone at night, or how they might be framing violent ex-husbands to manipulate custody battles, because that's what women do. Those episodes tend not to happen anymore, or at the very least if that dialogue does come up it's always soundly rejected by the lead actors. But updates like these tend to reflect more general social changes to acceptable language or attitudes, rather than a shift in the show toward a more critical approach to the depictions of policing and crime. Almost none of the cop shows on the air have anything but complete faith in the systems they're representing.

An extremely comprehensive study called *Normalising Injustice* was released by civil rights not-for-profit Colour of Change in 2020. It took a deep dive into 26 scripted series focused on crime from the 2017–2018 season, and the results are fairly alarming. It's a really interesting report and they do a better job of summarising the report findings than I could, so I'll give you a little quote from the introduction: "Normalizing Injustice found that the crime TV genre—the main way that tens of millions of people learn to think about the criminal justice system—advanced

debunked ideas about crime, a false hero narrative about law enforcement, and distorted representations about Black people, other people of colour and women. These shows rendered racism invisible and dismissed any need for police accountability. They made illegal, destructive and racist practices within the criminal justice system seem acceptable, justifiable and necessary—even heroic. The study found that the genre is also incredibly un-diverse in terms of creators, writers and showrunners: nearly all white."

The report identified a number of normalising conventions that help reinforce injustice as a standard practice – in particular, that many of the actual injustices committed by characters were committed by the so-called Good Guy and that wrong-doing was either not acknowledged or was framed as a necessity for getting results. This was illustrated through the Good Guy Endorser Ratio, and you know I love a theory with a cool name. Basically, the ratio compares the number of wrongful actions committed by the Good Guy to the number of wrongful actions committed by the Bad Guy. On average, 8 Good Guy characters committed a wrongful action for every 1 Bad Guy – so an average ratio of 8 to 1. But in shows like SVU for example, the ratio was as high as 20 to 1. To compound this, there were 3 times as many wrongful actions committed as acknowledgements of those actions, and most of the acknowledgements included the excusing of the wrong-doing itself. If you're having trouble imagining what that actually looks like, I want to think of any of your generic, box-brand crime franchises. Whichever one's

your favourite – mine's Law and Order, obviously. Now I want you to picture the actual crime they're investigating. Might be murder? Maybe it's arson? Cool. Now picture how many times that specific crime is committed during the episode. Once? Maybe twice? If it's getting up to two or above, the lead actor is probably gonna look into the camera and say "It's the same perp... we've got a serial". Ok. Now picture how many times you see the lead detective get frustrated with a suspect, scream at them and slam them against the wall. Or grab them as they're walking away. Or subtly (and not-so-subtly) threaten them into giving up information. It's a lot more, right? All of those are wrongful actions – witnesses are being physically intimidated and threatened in the name of catching the Bad Guy. Ok, now picture how many times the suspect in question is a red herring. They're just some guy who was in the wrong place at the wrong time and maybe they're a bit weird. They're a civilian who's just been physically and verbally assaulted, and for what? No leads. Maybe some lightbulb moment for the detective in question as they realised who the actual perp was. Now many times did you question those actions, or point them out as obviously wrong? I'm guessing on a good day, you maybe caught one or two. They were possibly the ones acknowledged in the script. Or maybe they were genuinely that egregious that you weren't able to suspend your disbelief. But a lot of it would have washed over you, because those actions are so frequently framed as necessary or sympathetic.

And that's not even scraping the surface of way race plays out in these stories. The

criminal justice system is almost always presented as somehow being race neutral – no one is unfairly targeted and justice is applied evenly and fairly. Even when a black character objects that they are being unfairly profiled, other black law enforcement characters are available to roll their eyes and say things like "Yeah, yeah – but we all know you've been [insert whatever crime stereotype we're dealing with that week]." And that's when they bother – most of the shows don't even hint at the disproportionate impacts of policing on marginalised communities, let alone tackle it as a plot point. Victims of violent crimes are also overwhelmingly white men and women – something that runs counter to actual crime statistics. One executive quoted in the report said, "Viewers will change the channel if we make the crime victim Black, so you'll have to rewrite those characters and make them white instead." The report also found that 81% of showrunners for police procedurals were white men and 81% of writers across the series were also white, which probably removes a lot of the opportunity to write in some nuance.

Given that most of us will never directly experience a major crime (the type that would make good television), a lot of our understanding of how legal institutions work is actually driven by our TV consumption. And look, I would be willing to accept a little scepticism of the impact of television on people's understanding of the world or their integration of hero narratives as important to their lives, if the impact wasn't so obvious in other areas. Did you know that in 80 percent of cases where American firefighters died engaging with blazes, investigators

concluded there hadn't been enough—or any—risk-versus-gain assessment before attacking the fire? Firefighters had a tendency to buy into their own narrative as heroes and rush in to perform the noble task of putting out a fire without spending time assessing the dangers. On average 100 American firefighters die in a year, which is significantly more than in other similarly developed nations.

While the majority of police procedurals take a serious tone and present their characters uncritically, there has been a recent trend with shows like Brooklyn Nine-Nine toward gently criticising the police and the social factors that underpin modern policing. It's a light show, and so the criticism usually takes the form of a joke – for example, in season 5 Detective Jake Peralta, a man who loves 80s cop films, calls a suspect “junkie scum” before saying as an aside, “Also for real, addiction is a disease, and I would be super empathetic if you hadn't murdered a man”. The correction becomes a running joke throughout the monologue. This gentle shift has largely gone unexamined, to the point where, when academic and author Steven Thrasher pointed out the change, calling it good propaganda, he was shouted down by fans of the show. Now, in May of 2020 a wave of Black Lives Matter protests was kicked off by the murder of George Floyd at the hands Minneapolis Police officer Derek Chauvin. The protests were some of the largest civil rights protests in U.S history, and sparked similar movements globally. They also introduced many white Americans to what black and marginalised communities had known forever – namely that police brutality was a real and pervasive problem in

police departments, rather than a series of unfortunate isolated incidents. While most protests were peaceful, the world was horrified by non-stop news footage of protestors being pelted with batons, tear gas, rubber bullets and pepper spray by police. If it wasn't already clear, it became overwhelmingly obvious that the brutality faced by George Floyd and other victims wasn't just a few bad apples but the system working as designed.

While it obviously wasn't the primary concern, during this time many crime show players including actors and producers were publicly reckoning with the fact that they were portraying a glamorous version of officers who might otherwise be the kind of people who'd pull off a 19 year old's mask in the middle of a global pandemic so that they could better shoot them in the face with pepper spray. Andy Samberg, who wrote and produced Brooklyn Nine-Nine said that during the show's final season they needed to “see if we can find a way of [putting the show together] that we all feel morally okay about”. The result was a final season that tried its best to confront itself – actions that amounted (although comedically) to wrongful arrest, witness intimidation and harassment were addressed as such, with the likeable Jake being suspended after owning up to his mistakes. Detective Rosa quits to become a PI after being unable to reconcile the her job on force with her belief in the protests. The season ends on the gang working hard to get a police reform proposal over the line and succeeding.

But ultimately, the final season wasn't great – it was largely unfunny and at points, felt as though it was straining

to make its point. It's not for me to say whether there was any point in this total plot overhaul. As Patrick Lenton, writing for Junkee, pointed out: "The audience of Brooklyn Nine-Nine who are affected by racial profiling, systemic racism, and police brutality might appreciate the efforts the show has taken, and find it comforting in some way to see this struggle depicted at all on the show. Perhaps it's deeply necessary to them, and the people in the show wanted to try as hard as they could for those fans, and for their own peace of mind."

While I can't make that call, I do think it's important to keep in mind the genre's origins as a form of propaganda and the way that it continues to serve that purpose. Like I said, I often find myself turning to crime procedurals because they're uncomplicated – the bad guy is always found and justice is always served. But if you think about it for more than a minute, the simple pathway to finding whodunnit is so regularly littered the types of violence and intimidation that regular citizens in marginalised communities actually face that it calls into question whether justice is actually being served at all. Confronting the straightforward nature of these shows goes some of the way to unpacking our ingrained attitudes toward modern policing, and perhaps gives us some scope to move on from a genre that's served its purpose.

Well, there you go. Police procedurals. It would be remiss of me to spend an entire episode talking about the terrible nature of policing and not provide you with some links to help people who have been incarcerated. I've taken this opportunity

to once again donate to Sisters Inside, which advocates for the collective human rights of women and girls in prison, and their families, and provides services to address their individual needs. I'll provide a link to their webpage in the show notes and on the website. Check them out, and send some coin their way if you have anything to spare. Other than that, if you want to spend some time going over the nuances of the various Law and Order spin offs, talk to me about it next time you see me at the pub! Peace!

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Episode written by Alex Johnson and produced by Wes Fahey.

Theme tune by Wes Fahey. (Soundcloud: [lee snipes](#))

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