

## Confined, Crammed, and Inextricable: What *The Wire* Gets Right

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Enthusiasm for *The Wire* is hardly limited to law professors, but the series does seem to hold a special appeal for us, especially if we teach criminal law and criminal procedure. What accounts for that appeal? Not, I think, the widely praised realism of *The Wire*, at least not in the most obvious ways. The series does have an almost visceral sense of place, and it does show, in grim detail, many of the ways the criminal justice system goes wrong. But the loving attention to Baltimore does little to explain the particular pull the series has for those of us who teach and write about criminal justice, and the institutional failures that the series spotlights—the futility of the war on drugs, the cooking of crime statistics, the often casual brutality of street-level policing—are, let's face it, hardly news. Even among law professors, it's hard to imagine any documentary about those failures, no matter how accurate, generating the kind of excitement *The Wire* has generated. It has to be said, too, that there are important ways in which *The Wire* isn't all that realistic. It is not particularly good, for example, at capturing the workaday feel of law enforcement. Any number of less celebrated television programs—*Barney Miller*, *Cagney & Lacey*, *Hill Street Blues*, even *Law & Order*—have done a better job of that. Nor, for the most part, does *The Wire* seem especially perceptive about leadership. The organizational dynamics of law enforcement, and the compromised politics of city government, often have a crazed, over-the-top feel in the series—entertaining, but not strikingly true to life. In these respects, and some others, *The Wire* aims less for verisimilitude than for the power of myth.

Nonetheless much of what makes *The Wire* so gripping—and, I think, much of what makes it especially gripping for professors of criminal law and criminal procedure—does seem to have to do with a certain kind of realism. It isn't detailed accuracy about institutional failures, or the drug trade, or post-9/11 Baltimore, but something at once bigger and more basic: the dimensions of human and moral complexity that criminal justice work, in pretty much any time or place, will inevitably bring to the surface.

That theme is all over *The Wire*, but I want to pursue it by discussing one particularly striking scene, toward the end of the program's fourth season. Season four of *The Wire* is built around the intersecting stories of a group of eighth-grade boys in West Baltimore. Of the group, the one who might seem at the outset to

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have the best odds of getting through relatively unscathed is Randy Wagstaff. He lives with an attentive foster parent, “Miss Anna.” Randy is bright, imaginative, outgoing, and entrepreneurial, with an irrepressible, often impish sense of humor. He has a strong conscience. He cares about being honest, about honoring his commitments, and about following Miss Anna’s rules.

It is because Randy cares so much about Miss Anna and her expectations, it is because truth-telling comes so naturally to him, and it is because his conscience pulls so powerfully, that Randy winds up telling the assistant principal at his school about a murder in which he himself played a small, unwitting role. At that point Randy is helped out by almost the reverse of Murphy’s Law: anything that can go right, does. It happens that Randy’s teacher is a former cop, Roland Pryzbylewski, who is in a position to make sure that Randy is not chewed up by the system. Pryzbylewski reaches out to his former supervisor, Cedric Daniels, an officer of intelligence, sophistication, and good will, and Daniels makes the inspired decision to place Randy in the care of Sergeant Ellis Carver.

Carver starts out in *The Wire* as an immature, often overzealous officer, but by season four he has become something of a model sergeant: dedicated, energetic, shrewd, and people-oriented. He knows and respects his officers, and he knows and respects the people that he and his officers police—including the kids. Carver understands that the kids he deals with, even the ones caught up in the drug trade, are not all bad. He grew up in Baltimore public housing. He knows the neighborhood. He has grown to appreciate that policing is about connections and about trust. You couldn’t hope for a better cop to take Randy under wing.

But then the more conventional version of Murphy’s Law begins to operate. Carver lets his former partner, Herc Hauk, interview Randy. Hauk handles the interview badly, bullying Randy needlessly and stupidly. Worse, Hauk later lets slip, when questioning a suspect in the murder, that Randy has provided information to the police. Randy is taunted, harassed, and assaulted, at school and on the street. Carver has an unmarked patrol car assigned to watch the house that Randy shares with Miss Anna. But someone uses the payphone down the block to make a false report that a cop has been beaten and shot. The unmarked car is dispatched to the scene, and Miss Anna’s house is firebombed.

That’s the setup for the scene I want to discuss. The scene runs just under two minutes and comes at the end of the penultimate episode of the fourth season.<sup>1</sup> It begins with Carver walking into the University of Maryland Burn Unit to check on Miss Anna’s condition. The board at the nurses’ station lists Anna Jeffries as “critical/stable” with second- and third-degree burns. Directed down a hallway by one of the nurses, Carver finds Randy in a waiting room, seated dejectedly beside a weakly-lit Christmas tree. Randy’s face is bruised and tear-stained, his hands folded. Carver hesitates for a moment and then sits down next to Randy. He says, “I’m sorry, son.” He promises to talk to social services and get Randy some help. Randy looks at the ground and does not respond. When Carver reaches over to

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<sup>1</sup> See *The Wire: That’s Got His Own* (HBO television broadcast Dec. 3, 2006).

touch Randy's shoulder, calling him softly by name, the boy flinches and then half raises his arm, rebuffing the overture. Carver sits silently for several long seconds. Then, defeated, gets up to walk away. As Carver retreats down the hallway, Randy turns and begins to call after him, with rising anger: "You gonna help, huh? You gonna look out for me? You gonna look out for *me*, Sergeant Carver? D'you mean it? You gonna look out for *me*? You promise? You got my back, huh?" Carver turns the corner at the end of the hallway, and the episode ends.

Much of what makes this scene so strong, like much of what makes the entire series so strong, has less to do with criminal justice than with storytelling and artistry. It starts with the visuals. No hallway has ever looked longer or lonelier; no waiting room has seemed more forlorn. The first half of the scene has little sound; Carver is seen twice through glass doors, emphasizing his isolation and the difficulty that he will face in connecting with Randy; it's almost like watching Dave Bowman through the pod door and his helmet glass at the end of *2001: A Space Odyssey*. The dialog, by George Pelecanos, is spare and fresh. And the acting, by Seth Gilliam as Carver and Maestro Harrell as Randy, could hardly be better. Gilliam, for example, does a lot just in the way he walks: the swing of his shoulders, almost a forced swagger; the badge hanging heavily from his neck, at once a talisman and a millstone; the few seconds of hesitation when he first sees Randy. Harrell's flinch and his half-raised arm tell us pretty much everything we need to know about his pain and his sense of abandonment. And the taunts he throws at Carver at the end of the scene are delivered with a degree of restraint that makes their mocking bitterness all the more haunting.<sup>2</sup>

Like *The Wire* more generally, the scene in the burn unit waiting room is not just, or even mainly, a piece of social commentary. It is collaborative storytelling. It is not particularly notable for what it shows us about institutional malfunctions in the criminal justice system. Yes, it dramatizes, in a particularly heartbreaking way, how bad the system can be at keeping promises to witnesses, and how terrible the costs of those failures can be. But, again, there is not much news here.

The power of the scene, like the power of *The Wire* more generally, does derive in part from what it captures, but what it captures most strikingly is not the fact of institutional failure. It is human and moral complexity.

To begin with the human complexity, Carver and Randy are nuanced, rounded characters, with long backstories. Part of what makes the scene in the burn unit so achingly poignant is how far Carver and Randy have come: how Carver has slowly developed into a thoughtful, responsible cop, and how Randy has been yanked, violently, out of childhood and relative good fortune. The long form of the multi-season series allows this kind of development, and *The Wire* has been rightly praised for taking more advantage of that opportunity than any other show in memory. The long form also allows *The Wire* to embed its characters in sprawling webs of social interaction, and the series makes remarkable, maybe unprecedented

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<sup>2</sup> For a nice discussion of how much *The Wire* owes to its remarkable cast, see Lorrie Moore, *In the Life of 'The Wire'*, N.Y. REV. BOOKS, Oct. 14, 2010, at 23, 24–25.

use of that opportunity, as well.<sup>3</sup> There are only two people in the waiting room, but lots of people, linked through overlapping networks and institutions, have helped to bring them there: Miss Anna, obviously, but also Carver's colleagues and former colleagues on the police force—Hauk, Daniels, and Pryzbylewski; Pryzbylewski's current boss, Assistant Principal Marcia Donnelly, to whom Randy initially confesses his involvement in the murder; the drug dealers who use Randy to set up the killing; and the countless, diffuse bonds of friendship and acquaintance that put Randy in a position to be used by the drug dealers, and that later bring him to Assistant Principal Donnelly's office, first for cutting class and then on the suspicion—which ultimately proves erroneous—that he acted as a lookout during a rape. The intricate, cross-cutting interactions that lead up to the firebombing of Miss Anna's house make clear that it is Carver's fault but also not his fault; that Randy is to blame but also not to blame. That kind of causal quagmire is thoroughly familiar to anyone who has worked in or studied the criminal justice system, and it is part of what makes *The Wire* feel so true to the realities of that system—a more important part, I would say, than what the series tells us about institutional malfunction.

The difficulty of locating blame in overlapping networks and institutions is related to a second kind of complexity captured in the burn unit scene, and in *The Wire* more generally—moral complexity. We are used to thinking of the criminal justice system as negotiating a series of binary tensions: due process versus crime control, paramilitary law enforcement versus community policing, majority interests versus minority interests. *The Wire* repeatedly pushes against that way of thinking about the criminal justice system, not because it suggests that the tensions do not exist, but because it suggests that picturing them as neat dualities is hopelessly oversimplified. The tragedy that puts Miss Anna in the burn unit, and that brings Carver and Randy face to face in the waiting room, is hard to map onto the opposition between due process and crime control, or any similar, binary understanding of criminal justice.<sup>4</sup> In this respect, the firebombing and its aftermath are illustrative of many of the hardest problems in criminal justice today. It's not that reconciling civil liberties with law and order has become easy or straightforward, but rather that a growing range of issues in criminal justice—like the treatment of witnesses and informants—often seem orthogonal to that old, familiar tension. Think, for example, about the problem of erroneous convictions, or about the treatment of crime victims, or about the drive to diversify police workforces.

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<sup>3</sup> See Caroline Levine's wonderful, unpublished paper, *Artful Accuracy and the Problem of Form: Why The Wire Feels Real* (on file with author).

<sup>4</sup> On due process and crime control as opposing "models" of criminal justice, see Herbert L. Packer, *Two Models of the Criminal Process*, 113 U. PA. L. REV. 1 (1964). Nothing demonstrates the enduring influence of Packer's approach better than the continually expanding body of criticism it has elicited. For recent overviews, see, for example, Erik Luna, *System Failure*, 42 AM. CRIM. L. REV. 1201, 1202 n.8 (2005); Stuart Macdonald, *Constructing a Framework for Criminal Justice Research: Learning From Packer's Mistakes*, 11 NEW CRIM. L. REV. 257, 263–69 (2008).

It is sometimes suggested that the choice between due process and crime control has been supplanted by a different choice, between an old style of policing—rigid, reactive, and organizationally independent—and the new approach of “community policing.” There is some truth to that suggestion. The community policing movement, which rose to prominence in the 1980s and 1990s, did much to transform American law enforcement, largely for the better. That transformation remains incomplete, so the tension between community policing and the older, so-called “professional” style of policing, remains live. But many of the challenges confronting the police and police reformers have little to do with the ongoing battle between professional policing and community policing—except insofar as they suggest that the battle is, in some ways, moot. For example, there’s a growing consensus, both among researchers and among law enforcement leaders, that trust is essential to effective policing. The centrality of trust, and the difficulty of maintaining it, are large themes in *The Wire*; they contribute and give resonance to the sense of tragedy surrounding Carver’s encounter with Randy in the burn unit waiting room. But they are captured only incompletely by the larger debate between professional policing and community policing. Carver’s efforts to connect with Randy, before and after the firebombing, might be taken as a model of community policing, and the arsonists succeed in part by taking advantage of the centralized dispatch of motorized patrol—often taken to be a core component of the older model of police professionalism. In truth, though, most advocates of the professional model fully appreciate the need to maintain the trust of the community, and the community policing movement, for all its strengths, has not come up with new ways to protect witnesses. It is hard to blame the firebombing of Miss Anna’s house on a misguided commitment to police professionalism, or to see it as evidence of the failure of community policing.

Nor is this a story about racial conflict, at least in any easy or obvious way. Carver, Randy, and Miss Anna are all African-American—as are most of the characters in *The Wire*, including the drug dealers responsible for the firebombing. Carver’s former partner Herc Hauk is white, but he is a bit player in this particular tragedy, and his contribution—clumsily disclosing Randy’s participation with the police—comes more from stupidity and impatience than from racism. At a deeper level, of course, everything that happens to Randy and Miss Anna is shaped by race. Race is everywhere in *The Wire*; part of what makes the series so compelling is how it dramatizes the connections between the drug trade, the criminal justice system, and wider patterns of racism and racial disadvantage. But the series also shows the limitations of race as a lens through which to view the daily tragedies of criminal justice in the United States. Randy and Miss Anna are not victims of racism alone.

At least not at the micro level. And if *The Wire* succeeds in part by showing the limitations of some familiar, dichotomous ways of understanding the tragedies of criminal justice, it succeeds, too, by exploding an even more basic interpretive binary: the tension between micro and macro, between individuals and systems as

drivers of human destiny. Orwell gave us perhaps the best and most enduring statement of that tension, explaining that

two viewpoints are always tenable. The one, how can you improve human nature until you have changed the system? The other, what is the use of changing the system before you have improved human nature? They appeal to different individuals, and they probably show a tendency to alternate in point of time. The moralist and the revolutionary are constantly undermining one another.<sup>5</sup>

Among the most remarkable things about *The Wire* is the way the series manages to transcend the struggle between the moralist and the revolutionary, embracing both viewpoints simultaneously. The tragedy that befalls Randy and his foster mother is heavily embedded in a network of overlapping institutions: the burn unit, child protective services, and, of course, the police. The police department, in particular, fails Randy and Miss Anna, as it fails, in a sense, Sergeant Carver. All three are let down by the department: by Herc Hauk, by the unmarked car that is too conspicuous, by the dispatch system. This is a story of individuals undone by systems—like every story in *The Wire*.

At the same time, though—and, again, like every other story in *The Wire*—the story of Carver and Randy and Miss Anna is a very human tragedy, a story of personal failure. Part of what makes Carver such an admirable officer—the trust he places in people, the loyalty he shows—is also his Achilles' heel. Those personal qualities are what lead him to stick with Hauk when he has every reason to abandon him, and to trust him with Randy when he should not. It is tempting to think that police officers face a simple moral choice: whether to place loyalty to their fellow officers above their obligations to the rest of us—to society, to the community, or perhaps, more grandly, to the rule of law. That's not a helpful way to understand the challenges that Carver faces, though, or how he grows as an officer, or what prove to be his limitations. The loyalty he shows to friends and partners, and the trust he places in them, are difficult to separate from the ways in which he reaches out to the people that he polices, his loyalty to *them*; they are different faces of the same "uneasy virtue."<sup>6</sup> And although Carver operates in a network of institutions, he makes his own decisions, and those decisions have consequences, for him and for others.

I think it is this particular kind of complexity, this ability to transcend dichotomies, that gives *The Wire* much of its power and explains much of its special appeal to people who have worked in criminal justice or who think and

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<sup>5</sup> GEORGE ORWELL, *Charles Dickens*, in *INSIDE THE WHALE: A BOOK OF ESSAYS* (1940), reprinted in *1 THE COLLECTED ESSAYS, JOURNALISM AND LETTERS OF GEORGE ORWELL: AN AGE LIKE THIS* 413, 427–28 (Sonia Orwell & Ian Angus, eds., 1968).

<sup>6</sup> JOHN KLEINIG, *THE ETHICS OF POLICING* 71 (1996); see also *id.* at 70–77; WILLIAM KER MUIR, JR., *POLICE: STREETCORNER POLITICIANS* 189–224 (1977).

write professionally about it. There is a way in which *The Wire* is almost the antithesis of *Law & Order*: instead of stylized dilemmas, we are given characters and situations that are many things at once. Carver is a victim of circumstances and the architect of his own failure. Policing is about power, but it is also about trust. The story of criminal justice is a story about race, but at the same time it goes beyond race. We are in Calvino's city Berenice, where justice and injustice, blame and excuse, are "wrapped one within the other, confined, crammed, inextricable."<sup>7</sup> This is in truth how the system feels, much of the time, to anyone who has worked in it or studied it closely, but there is really something startling about seeing that particular aspect of reality on the screen. It is the shock of the familiar, but the shock comes from how rare and unexpected it is to see these levels of human and moral complexity captured and held up for view. No documentary could ever accomplish this half so well; this is the province of narrative art. Of all the things *The Wire* gets right, this seems to me the most remarkable, and the most central to its power.

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<sup>7</sup> ITALO CALVINO, *INVISIBLE CITIES* 163 (William Weaver trans., 1974) (1972).

