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Teaching *The Wire*: Crime, Evidence and Kids

Andrea L. Dennis

I have a confession: I have only watched Season 1 of *The Wire*, and it has been many years since I did that. Thus, both my knowledge and pedagogical use of the show are limited. What explanation can I offer for my failings? I am a Maryland native with family who resides in Baltimore City, or Charm City as it is affectionately called.¹ I worked for several years as an assistant federal public defender in Baltimore City. Over time, I have seen the city evolve, and I have seen it chew up and spit out many good people and some not so good people. So, in the past, I told students who asked whether I had ever seen *The Wire*: “Why should I watch a fictional version of what I (painfully) experienced as reality?” Although it took many years after the series ended, I did eventually break down and watch Season 1.² In doing so, I discovered that the show is an ideal source for exploration of issues arising in three courses I teach. To date, I have used portions of Season 1 as platforms for assessing students’ comprehension of the materials in these courses.

Criminal Procedure II

On more than one occasion, I have provided students in the course with a case study drawn from the storyline involving D’Angelo Barksdale. D’Angelo was arrested and charged with possession with intent to distribute heroin after a road-trip on the I-95 corridor from Baltimore City to New York City to pick up a drug shipment for his uncle. I used the general storyline as well as spun-off facts to create a series of questions implicating discrete issues. The case study covers many different topics, including the right to counsel, pre-trial detention, prosecutorial charging discretion, discovery, guilty pleas, jury voir dire and post-trial sentencing arguments.

Andrea L. Dennis is Associate Professor of Law, University of Georgia School of Law. Thanks are owed to Roger Fairfax who organized a group of us to engage in a roundtable discussion on *The Wire* at the 2014 Annual Meeting of the Southeastern Association of Law Schools. Thanks to my co-discussants for further opening my eyes regarding the show.

1. Gilbert Sandler, *How the City’s Nickname Came to Be*, THE BALTIMORE SUN, July 18, 1995, available at http://articles.baltimoresun.com/1995-07-18/news/1995199190_1_charm-city-bill-evans-loden.
2. The other seasons sit on my shelf, unwatched and still wrapped in plastic.

Evidence

I have used D'Angelo Barksdale in *Evidence* to generate essay examination questions. More particularly, I drew up a fact pattern of the fan-fiction variety. Using some of the characters who made up D'Angelo's "real" world, I took the liberty of creating scenes that did not happen on the show but could have. Because the exam is secure, I will not share with you the details of the fact pattern. I will tell you, however, that the exam presented students with essay questions covering the gamut in *Evidence*, including relevance, character evidence, other acts evidence, impeachment, hearsay evidence and the Confrontation Clause.³

Seminar: Lawyering for Children

This seminar explores the roles and responsibilities of lawyers representing children. Here I used Wallace's story as a practice problem. Wallace was an orphaned, homeless, teenage school drop-out. He was part of D'Angelo Barksdale's drug crew and wanted to get out of the drug business. When Wallace was arrested on suspicion of drug crimes, law enforcement offered him a way out: cooperate with authorities investigating the murder of another teen. Wallace agreed and, although he was placed in "witness protection," his snitching ultimately led his peers in the drug crew to follow orders to kill him.⁴

Wallace's story allowed for examination of how case type influences the mode of representation in juvenile cases. Students were asked to first determine whether Wallace should be treated by the justice system as a criminal defendant, delinquency case, status offender, child welfare case subject or simple witness. Based on their determinations, students then identified counsel's role. For example, best practices suggest that children who face delinquency charges or are the subject of welfare proceedings should receive client-directed, zealous representation.⁵ Because working with underage clients requires special knowledge and skills, students next were asked to develop a plan for building rapport and communicating in an age-appropriate manner with Wallace.⁶ Finally, students were asked what advice and counsel they would give Wallace.

3. U.S. Const. amend. VI ("In all criminal prosecutions, the accused shall enjoy the right to . . . be confronted with the witnesses against him.").
4. I also teach Criminal Law, and Wallace's story can be used therein to consider the "rotten social background" defense, although I have not done that. For recent treatment of the issue, see Symposium, "*Rotten Social Background*" 25 Years Later: Should the Criminal Law Recognize a Defense of Severe Environmental Deprivation? Symposium, 2 ALA. C.R. & C.L. L. REV. 1 (2011).
5. See A.B.A., STANDARDS OF PRACTICE FOR LAWYERS WHO REPRESENT CHILDREN IN ABUSE AND NEGLECT CASES (1996), available at http://www.americanbar.org/content/dam/aba/migrated/family/reports/standards_abuseneglect.authcheckdam.pdf; Kristin Henning, *Loyalty, Paternalism, and Rights: Client Counseling Theory and the Role of Child's Counsel in Delinquency Cases*, 81 NOTRE DAME L. REV. 245 (2005).
6. See LAUREN GIRARD ADAMS & MAISLEY PAXTON, A.B.A., COUNSELING CHILDREN AND YOUTH IN TIMES OF CRISIS: TIPS TO ACHIEVE SUCCESS AND AVOID PITFALLS (2009), <http://apps.americanbar.org/litigation/committees/childrights/docs/CounselingChildrenandYouth.pdf>.

Wallace's storyline also presented the chance to consider a larger question: what is the relationship between child welfare, juvenile delinquency and criminal justice? In 2007, the Children's Defense Fund issued a report launching its Cradle-to-Prison Pipeline Campaign.⁷ In the report, the fund opined that children exposed to six or more risk factors—including, but not limited to, (extreme) poverty, teenage or unstable parents, lack of prenatal care, low birth-weight, untreated childhood abuse or neglect, foster care placement, poor school quality and lack of access to quality community mental health interventions—are “ten times as likely to commit a violent act by age 18 as children who experience only one or a few of these risk factors.”⁸ These children never get on the path to college but instead are born on a track headed to prison.⁹ Empirical evidence from the National Institute of Justice and the American Academy of Pediatrics scientifically supports this report.¹⁰

In closing, the realism and richness of the plot lines and characters in *The Wire* provide a multitude of options for consideration of legal issues across a range of subject areas such as criminal procedure, evidence and juvenile law. Notwithstanding, I do worry that *The Wire* paints Baltimore City as irredeemable and fails to depict any of the charm that I know exists in Charm City.

7. CHILDREN'S DEF. FUND, AMERICA'S CRADLE TO PRISON PIPELINE (2007), <http://www.childrensdefense.org/child-research-data-publications/data/cradle-prison-pipeline-report-2007-full-lowres.pdf>.

8. *Id.* at 17-18.

9. *See id.* at 18.

10. *See* CATHY S. WIDOM & MICHAEL G. MAXFIELD, U.S. DEP'T OF JUSTICE, NATIONAL INSTITUTE OF JUSTICE, AN UPDATE ON THE "CYCLE OF VIOLENCE" 7 (2001), *available at* <https://www.ncjrs.gov/pdffiles1/nij/184894.pdf> (“[Pipeline] children show the highest risk of later juvenile and adult arrest, as well as violent criminal behavior.”); Jack P. Shonkoff, et al., *The Lifelong Effects of Early Childhood Adversity and Toxic Stress*, 129 PEDIATRICS, e232, e237-e238 (2011), *available at* <http://pediatrics.aappublications.org/content/129/1/e232.full.pdf>. Toxic stress is defined as “strong, frequent, or prolonged activation of the body’s stress response systems in the absence of the buffering protection of a supportive, adult relationship.” *Id.* at e236. Stressors include, for example, “child abuse or neglect, parental substance abuse, and maternal depression.” *Id.*