

## The Strange Universe of Police Procedurals: *Blue Bloods* and *R v Waterfield*

Riel Picard

Let's say that you are a police officer trying to do your due diligence by supervising a civil rights protest and making sure it stays peaceful. Suddenly a mother and her son approach you to ask a question and, at the same time, between the throngs of unhappy citizens you see a cyclist. It clicks, you do the math, you see the trajectory and you realize, with horror, that the cyclist is on a collision course with the helpless family in front of you. What would you do? That is the exact situation which Jaime Reagan finds himself in CBS's procedural drama *Blue Bloods*, in an episode entitled "Rush to Judgement". The unimpeachable Reagan, of course, rushes to protect the mother and son and in the process accidentally knocks over the cyclist and injures him.

"Rush to Judgement" takes a break from the usual content of Jaime's storyline, which mostly consists of the adorable will-they-won't-they between him and his partner (they will) to focus on issues of police brutality and when I write "focus" I mean "preach". The title of the episode itself is proof of its agenda, right off the bat it tells the viewer what they should take away from this masterpiece of fiction. It's genius in its own special way.

I don't want to be dramatic, but if you've never seen *Blue Bloods* I highly recommend watching this episode. It's like an avant-garde piece of absurdist comedy or possibly the writers are just so oblivious to their own biases and this is the inevitable result. The universe in this television show is some sort of weird alternate reality, one where police officers are saints, incidents of police brutality are always misunderstandings, and university students unironically spout lines like "I just wanted to be part of the social justice movement" while sprawled on a hospital bed.

*Blue Bloods* takes Jaime's innocence for granted, it doesn't have any intention of dealing with issues of police brutality. This episode is a perfect case study for how television dramas like *Blue Bloods* perpetuate harmful narratives about cases of unjustified police violence by barely addressing them. For the sake of argument let's pretend this episode was set on the mean streets of Toronto and ask ourselves how Jaime could be prosecuted. The landmark English Court of Appeal case *R v Waterfield* may help us in this task.

Just for fun let's apply the Waterfield test to Jaime's actions during the civil rights protest which, I think, is a *prima facie* interference with the cyclist's liberty. There may be other questions in this case that any self-respecting law academic would point out, but for the sake of argument let's just stick with the Waterfield test and keep things simple. Justice Ashworth set out this test when he adjudicated *inter alia* that if a citizen's liberty has been violated by police conduct it is essential to determine whether "such conduct falls within the general scope of any duty imposed by statute or recognized at common law and (b) whether such conduct, albeit within the general scope of such a duty, involved an unjustifiable use of powers associated with the duty" (*R v Waterfield* 1963). Is protecting a mother and her son from being trampled by a cyclist "within the general scope of duty" of a police officer? Should Jaime have, as the District

Attorney prosecuting his case said, “checked himself before he wrecked himself?” All good questions.

It seems to me that Jaime Reagan’s actions in this episode fell within the bounds of the police common law duty to protect life. The second part of the Waterfield test can be answered in the negative and result in no punishment for the young Reagan. Clearly a reasonable person would look at the situation and decide that Jaime’s actions were fair.

*R v. Waterfield* is a benchmark case and the test it employs to navigate the intersections between the state and its citizens is helpful but the issues arising from police powers will never be completely settled. The ever-changing relationship between the police and civilians is exactly why it is important to be having cultural dialogues about these issues and one of the best ways to facilitate discussions is through heavily consumed media such as television shows.

The main problem is that *Blue Bloods* isn’t a subtle program and its belief in the inherent goodness of police officers is apparent in every episode. There will be no assumptions made about the general morality of the police in this bLAWg but it is important to recognize that cases of unjustified police violence occur and, when they occur, many times the offender goes undisciplined.

I’ve been ragging on *Blue Bloods* specifically, but the media in general has major issues with the portrayal of police powers and the “offenders” whom they can sometimes brutalize. We, as a society, are obsessed with police shows to a harmful degree. Smart, thoughtful discussions about police powers are few and far between outside of specific communities and if CBS refuses to have them maybe we need to turn elsewhere.

I have made some sweeping generalizations in this discussion and half-heartedly quoted Justice Ashworth and if you feel like you’ve just wasted five minutes of your time that’s fine. All I set out to do here is give a quick reminder (which maybe you don’t need) to always be aware of the media you consume and investigate how it is engaging with the issues that it introduces. Ask yourself if it is picking a side and trying to manipulate you into agreeing with its point of view. Further, avoid CBS dramas like *Blue Bloods* unless you want a quick cringe.

## Jurisprudence

*R v. Waterfield* (1963) 3 All ER 659.

## Works Consulted

Richard Jochelson, Kristen Kramar & Mark Doerksen, *The Disappearance of Criminal Law: Police Powers and the Supreme Court*, (Halifax & Winnipeg: Fernwood Publishing, 2014) at 45-46.