

LAW, POLITICS AND FAMILY IN  
'THE AMERICANS'

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STUDIES IN LAW, POLITICS, AND  
SOCIETY VOLUME 89

# LAW, POLITICS AND FAMILY IN 'THE AMERICANS'

Special Issue

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United Kingdom – North America – Japan  
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Emerald Publishing Limited  
Emerald Publishing, Floor 5, Northspring, 21-23 Wellington Street, Leeds LS1 4DL.

First edition 2023

Editorial matter and selection © 2023 Austin Sarat.  
Individual chapters © 2023 The authors.  
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**British Library Cataloguing in Publication Data**

A catalogue record for this book is available from the British Library

ISBN: 978-1-83753-995-6 (Print)  
ISBN: 978-1-83753-994-9 (Online)  
ISBN: 978-1-83753-996-3 (Epub)

ISSN: 1059-4337 (Series)



INVESTOR IN PEOPLE

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**SPECIAL ISSUE: LAW, POLITICS  
AND FAMILY IN 'THE AMERICANS'**

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# CHAPTER 1

## CRIMES OF *THE AMERICANS*

Richard H. McAdams

### ABSTRACT

*The television series The Americans succeeds as a family drama, crime drama, and political drama. Criminal law offers a useful perspective for interpreting the series. By examining the post-finale criminal liability of two key characters, daughter Paige Jennings and FBI agent Stan Beeman, this chapter provides some novel insights into the characters, their motivations, and the events in the last season of the series. The legal analysis also uncovers some ironies. Most notably, Paige's legal vulnerability will put her in a moral dilemma because her best way of avoiding a lengthy prison term is to provide evidence against Stan, punishing him for letting her and her parents go.*

**Keywords:** Law and literature; criminal law; criminology; moral dilemmas; dramatic irony; motive

*The Americans* is more than a crime drama or family drama, but belongs to both genres. Like *The Sopranos* and *Breaking Bad*, *The Americans* explores criminality with the lens of family and family with the lens of criminality. While raising two children, Philip and Elizabeth Jennings commit not just espionage, but various murders, assaults, burglaries, frauds, and thefts. Indeed, Philip and Elizabeth probably murdered more people than either Tony Soprano or Walter White. A possible difference from *The Sopranos* and *Breaking Bad* is that the motives for their crimes are ideological rather than pecuniary, making the series a political drama as well. Yet these motivations do not matter to the application of American

criminal law, as I will discuss. There is no legal defense of ‘We had a job to do’ or ‘It seemed like the right thing to do for my country’, as Philip says to Stan in the last episode (Weisberg, Fields, Bettis, & Long, 2018g) (S6E10), certainly not when the employer is an intelligence service in a cold war against the country in which the crimes occur.

Studies of law and literature usually use literature to examine law, but one can also use law to interpret literature. I do both here, though more of the latter. I begin by asking what happens *after* the end of *The Americans*, as a means of gaining insight into what happens within the series, especially near the end. I explore how legal actors – criminal investigators and prosecutors – will come to interpret and reinterpret the events in the series, given their limited information. After exploring the law’s likely narratives at the end of *The Americans*, I will briefly consider what *The Americans* has to say about American criminal law.

Legally, there is not much more to say about the central characters Philip and Elizabeth other than the obvious: they end up in Moscow beyond the reach of American authorities, but are without question guilty of many crimes in just the way the non-legal audience understands. The same is true of their handlers – Claudia and Gabriel. Besides committing espionage, standard criminal law doctrine makes them derivatively liable for the crimes they assigned Philip and Elizabeth to commit (via the law of conspiracy or complicity). The criminal law also offers no special insight into the one true innocent in the show, Henry Jennings, who, like Jon Snow in *Game of Thrones*, knows nothing, and is guilty of no crime. So I shall focus on the interesting things the criminal law has to say about the two remaining main characters: daughter Paige Jennings and FBI Agent Stan Beeman.

This focus uncovers some ironies. Throughout the series, viewers were worried whether Philip and/or Elizabeth would wind up in an American prison. In the end, they both escape, but two characters who we might have imagined as being safe (or much more safe) from criminal liability – Paige and Stan – face serious threats of serving long prison terms, in Stan’s case, perhaps the rest of his life. Both characters make crucial decisions in the series finale that are all the more momentous because of the legal consequences. In the pivotal garage scene, Stan faced a moral dilemma whether to shoot Philip or let the Jennings flee. Paige’s legal vulnerability will place her in a moral dilemma because her best way of avoiding a lengthy prison term is to provide evidence against Stan, punishing him for letting her and her parents go.

Begin with Paige, a sympathetic character, manipulated by extreme circumstances. Her parents and their KGB handlers begin recruiting her into espionage as a teenager, soon after delivering the shocking news of who her parents really are. Yet from what the viewer knows, Paige’s legal guilt is straightforward. What remains to be worked out at the end is how the FBI will locate Paige and how a prosecutor will find the evidence to convict.

First, the clarity of her guilt: Paige meets Philip’s and Elizabeth’s KGB handler Gabriel in season 5 and comes to understand his role by the seventh episode (Weisberg, Bettis, & Rhys, 2017b). By the beginning of Season 6 (Weisberg,

[Fields, & Long, 2018a](#)), Paige is being trained as a KGB field operative, and that final season shows her participating in actual operations, all demonstrating a conspiratorial agreement on her part. As she knows, the purpose of the training and operations is espionage on behalf of the USSR against the United States, a crime under 18 U.S. Code § 794. Her agreement and intent to agree satisfy the requirements for the conspiracy under either the general conspiracy statute, 18 U.S. Code § 371, or the conspiracy section of the espionage statute, 18 USC § 794(c). Conspiracy doctrine is fairly indifferent to claims that one did not personally know all the members of the conspiracy. In general, federal conspiracy law requires that at least one conspirator carry out one overt act in furtherance of the conspiracy. The overt act need not itself be a crime, but Elizabeth clearly commits many overt acts that are crimes in every season, including the sixth after Paige has joined the conspiracy.

As a result, Paige is guilty of murder. In S6E2 ([Weisberg, Fields, & Rhys, 2018b](#)), Elizabeth runs an operation to compromise and coerce the cooperation of US Air Force General Rennhul. Paige stands as a lookout for a meeting between Elizabeth and Rennhul in a wooded area. Rennhul pulls a pistol on Elizabeth, but she grapples with him and winds up fatally shooting him. Hearing the shot, Paige runs to the scene to offer assistance (contrary to orders). Paige might lack the mental state to be an accomplice to murder except that, under the felony murder rule, all participants in a dangerous felony – here, espionage – that causes death are guilty of murder. One might be tempted to claim that Elizabeth was entitled to defend her life against Rennhul. She is not so entitled if Rennhul were attempting to arrest Elizabeth, whom he knew to be a KGB agent carrying out espionage. But from his statements at the scene (‘I’m not going to jail, and I’m not going to betray my country’), Rennhul was probably not intending to bring her into custody, but merely to kill her to stop her the blackmail scheme and save his career. Yet Elizabeth’s possible self-defence claim is rather beside the point once we realise that she is the only living witness to what Rennhul said when he drew his weapon, and that no American jury would believe her.

Moreover, this was not the only fatal KGB operation in which Paige personally participated. In S6E4 ([Weisberg, Ackerman, & Dawson, 2018c](#)), Paige is a driver for Elizabeth when she burglarises a warehouse in order to steal a military sensor. Elizabeth fails to retrieve the sensor, but shoots three guards in the attempt. As she leaves them bleeding in the dark, with no way to get help, presumably some or all of them die. If a jury later knew exactly how ignorant Paige was of the situation, they might acquit her as an accomplice to the murders. But Paige knew she was aiding a KGB agent in an operation, she was at the proximate scene of the homicides, and she drove the ‘getaway’ car with the agent. One could easily imagine a jury disbelieving her protests of ignorance and convicting her of murder.

All of this legal jeopardy creates another perspective from which to view her fateful decision to step off the Amtrak train in the final episode ([Weisberg et al., 2018g](#)) (S6E10). For security, Philip, Elizabeth, and Paige are in disguise and sitting in separate compartments when law enforcement agents board the train looking for them. The agents are fooled and, as the train starts moving

again and the threat of arrest fades, we see Philip and Elizabeth discreetly relax. But instead of the audience seeing Paige relax as well, we witness her parents as they take in the image of Paige through the train window, standing motionless outside on the platform facing her departing parents. This is how they discover that she has abandoned them. For all they know, it is the final time in their lives they will see her (though the fact that the Soviet Union falls only four years later makes it more likely they will meet again). Paige decided not to move to Russia, but understandably could not bring herself to say goodbye because she could not expect to resist her parents' manipulations or use of force to keep her on the train.

This shattering scene is even more powerful because of Paige's legal jeopardy. Her apparent choices are now to live on the run or go to prison. Even if the FBI did not suspect Paige of any crime, they would have a powerful desire to question her about her parents. As the older child, and the only one still living in the area with her parents (because Henry is at boarding school), she is the single person the FBI can identify who might know her parents' secrets. The FBI (and possibly CIA) will want to discover everything they can; they would have weeks of questions. But the FBI will also directly suspect Paige, the third legal adult in the family, and will actively seek to arrest her. Near the end of the series, Philip and Elizabeth had killed two FBI agents in Chicago when they tried to rescue an 'illegal' KGB operative like themselves (Weisberg, Nolen, & Schwartz, 2018e) (S6E7). Federal prosecutors will likely be looking for someone to punish, and with Philip and Elizabeth in Moscow, they will leave no stone unturned in making a case against Paige.

Without unravelling all that Paige did, there is plenty they might discover quickly to justify an arrest. The FBI might learn that Paige was on the same train that Philip and Elizabeth used to escape the United States. Her flight with disguised parents seated separately, even if aborted, suggests her guilt. They might discover the night where she successfully used martial arts to defend herself against a college man who was harassing her in a bar (Weisberg, Bettis, & Schlamme, 2018d) (S6E5). That event is evidence that her parents secretly trained her in martial arts, which makes sense if they were preparing her for espionage.

More significantly, the FBI may discover the KGB plan for Paige to infiltrate the American intelligence establishment. In one critical scene, after Paige insists that she is committed to the Soviet cause, Elizabeth agrees that it is time for Paige to apply for the State Department internship they had discussed (Weisberg et al., 2018e) (S6E7). By the end of the series, Paige has probably done so. This is something the State Department will tell the FBI, once the news about Philip and Elizabeth is public: they have an application from the daughter. And the FBI will see this internship application for what it is – the first step in becoming a highly placed mole inside the Washington intelligence community.

Most promising for the FBI, Pastor Tim and his wife Alice know that Paige knew for years that her parents are Soviet spies. Although the Pastor held firm on denying any such knowledge when Stan called him in Argentina (Weisberg, Fields, Bettis, & Long, 2018f) (S6E9), the FBI would now find it worthwhile to send someone to Buenos Aires to chat with him and his wife in person. They may find it hard to resist such interrogation, especially when interrogators make clear

that the Jennings committed far more serious acts of violence than Tim and Alice ever suspected. As law enforcement agents do in these circumstances, they will also intimidate the pastor and his wife with the idea that they are themselves suspects. In the end, there is strong reason to think the FBI would assemble enough evidence against Paige to make a criminal case, and no reason to expect a jury, during this intense period of the Cold War, to take pity on her.

Paige therefore needs to be on the run, which condemns her to a life of loneliness, the very fate she most wanted to avoid. Just before Paige convinces Elizabeth that she is ready to apply for a State Department internship, Elizabeth had told Paige of the fact that one of their agents died in Chicago. Paige replies that she is not afraid to die. Her mother asks what she is afraid of, and Paige says it is to be alone (Weisberg et al., 2018e) (S6E7). She doesn't have any real friends to give up to be part of the Soviet cause, so the implication is that the cause will give her the connections she wants. When her parents last see her on the train platform, she is abandoning the cause, abandoning her family, and utterly alone.

The last time the audience sees Paige, she is back in DC in Claudia's apartment, after Claudia has also fled. Paige is drinking vodka alone and listening to a Tchaikovsky song that Claudia had played for her earlier in the season, 'None But the Lonely Heart'. The handler had previously played it as part of Paige's cultural education about the Motherland, stating

He was one of Russia's great composers. For a long time after the war it was the only music I could listen to. His mother died young and his life was full of loneliness. (Weisberg et al., 2018b) (S6E2)

Throughout *The Americans*, a somber cello plays a musical theme to accompany introspective scenes of Philip, and one imagines this Tchaikovsky piece being the introspective theme for Paige's future.

Part of the success of the series finale is that viewers had contemplated Philip and/or Elizabeth getting caught by the FBI and languishing in prison. But they return to Russia, at the cost of leaving behind their children Paige and Henry, who face complicated futures. Henry will probably never be without friends, but Paige seems doomed to that fate. That end is perhaps fitting because Elizabeth says in the very first episode (Weisberg, Batistick, & O'Connor, 2013a) (S1E1) that Henry would manage if something happened to Philip and her, but that she worried about Paige, who is 'somehow delicate'.

Partly because Paige does not want to be alone, the most likely outcome is that the FBI succeeds in arresting her. Paige would want to reconnect with her brother, and will probably try at some point. But the FBI will be looking for her to make that contact, using multiple methods of surveillance. But even if she does not try to reconnect, or perhaps before she makes the attempt, the FBI may find her in other ways. At the end of the final episode, she's in DC, the area where her parents committed most of their crimes, where she is recognisable, and where Agent Aderholt is hunting her. As the FBI unravels the Jennings conspiracy, they might even identify the apartment where Claudia met them as a location to investigate and find Paige before she leaves it. In any event, Paige is simply not trained for a long-term change of identity and living on the run.

Suppose then that Paige is arrested. There remains a path in which Paige avoids a long prison sentence and retains the possibility of reuniting with her brother, of not being alone. It is not the strategy of a conventional defense, one claiming that the government case is too circumstantial and that the Paige was a mere pawn brainwashed by her parents. As stated, no lawyer would count on jury sympathy in this case, and federal prosecutors are in a position to credibly threaten to convict her of some serious crimes.

Instead, the obvious path she might take is a plea bargain. Here, it is important that the defense attorney succeeds in gaining Paige's trust, so that Paige will share her whole story. If so, then it will be obvious to the lawyer how best to keep Paige out of prison or, at least, to avoid a long term. Paige has something to trade with the prosecutor: she can offer them a much bigger target, akin to a low-level criminal giving up the capo of a large criminal organisation. Improbably, perhaps, the capo is Stan.

Paige knows that, during their flight from the FBI, Stan cornered her parents and her in a parking garage, that he was armed and they weren't, and that he nonetheless let them go free. Paige's lawyer can say to the prosecutor: we can offer you solid evidence that one of your own FBI agents had the ability to capture or kill the Jennings, but instead stepped aside to let them flee back to Moscow. What would the prosecutor give up for evidence that an FBI agent knowingly allowed two KGB spies – who had recently murdered FBI agents – to escape?

And so we get to the crimes of Stan. At heart, Stan is a patriot, and when he fails to do his patriotic duty, it is only because he has some powerful moral reason, as a concern for the welfare of innocents (or near innocents) caught up in Cold War machinations. Nonetheless, Stan would not merely lose his job if the whole truth comes out. He would very possibly die in prison. Initially, consider the crimes Stan commits in letting Philip and Elizabeth go.

First, he possibly committed obstruction of justice under 18 U.S. Code § 1503 and 18 U.S. Code § 1505, having intentionally impeded the ongoing FBI investigations and, presumably, ongoing federal grand jury investigations into the KGB operatives who murdered the defectors Gennadi and Sofia (Weisberg et al., 2018d) (S6E5), and the FBI agents in Chicago (Weisberg et al., 2018e) (S6E7). Stan and Agent Aderholt suspect that the 'illegals' who they've been chasing are behind both sets of murders, so Stan must know that his actions obstruct those proceedings. There are some good technical arguments on Stan's behalf, having to do with whether the 'corrupt' intent required means that the prosecutor must prove that Stan had the specific intent to obstruct those proceedings. But the evidence is probably sufficient to allow that inference, even if Stan says he hoped someone else would apprehend Philip and Elizabeth. Stan might say he believed Philip's denial of involvement in the murder of Gennadi and Sofia, but he knows that the FBI and grand jury want to speak to the Jennings, so letting them flee obstructs the proceeding. Likely, the courts would be receptive to interpreting the statutes in a way to reach his conduct. If so, obstruction of justice for the crime of murder is punishable by life imprisonment.