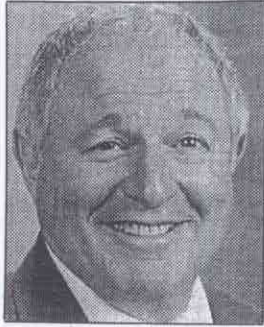


Counter**HBO's Ray 'Trial' Confuses**

By NORMAN M. GARLAND

Sometimes as I stand in front of the classroom in Criminal Procedure or Evidence, I see a hand waving at the rear and the student attached to it asks, "I have a question: On 'L.A. Law' last night the prosecutor. . . ." I gruffly interrupt and say, "Please do not confuse television and the movies with reality!" The student persists and I inevitably give an answer to the



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scenario described, but also explain that it is not realistic. Realism probably would not advance the plot.

The HBO "trial" of James Earl Ray coming up in April is another chance for my students and the public to confuse entertainment with reality. The participants in "Guilt or Innocence: The Trial of James Earl Ray" and the show's producer assert this production is really realistic, according to Eric Harrison's "James Earl Ray's Last Hope" (Calendar, Feb. 9). Nonetheless, being "like a trial" is not the real thing.

A courtroom is a powerful place. When the judge speaks, even the lawyers harken, yielding to authority. A trial is society's last ditch against chaos. The adversaries don't want truth, they don't want fairness, they want to win! Opponents battle each other in that arena, judged with the power of the state. Everyone is awed to some degree. Witnesses may even be awed into telling the truth, fulfilling their oath.

The American trial system rests on trust of the jury

punch**Entertainment**

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F3**With Reality**

James Earl Ray's Last Hope King's Convicted Killer Stands Before a Jury in HBO Trial

By ERIC HARRISON
Times Staff Writer

MEMPHIS—A hush fell over the courtroom as James Earl Ray's name was called. Nearly a quarter century after he confessed to killing Dr.

"show"—must go on. Everyone involved with the unorthodox HBO special, which wrapped filming here last week, was quick to exclaim how realistic the whole thing was. "After a few minutes in a real trial," thought I was in a real trial," said the Rev. E. Frankel, who was presiding in chambers waiting for

and microphones." Ewing said, adding that he can't predict how the show-biz aspect will affect the jury. On the morning of the day Ray was to testify, former U.S. District Judge Morris E. Frankel, who was presiding in chambers waiting for

selected to give its verdict. Jurors become officers of the law, sworn to uphold it and to judge the evidence. Once interviewed and "hired," jurors carry an awesome responsibility, for it is their job to resolve the triable cases, those unsettled before trial. A triable case usually is one that might go either way. As lawyers say, "Reasonable minds may differ." That is why a jury can acquit the policemen in the Rodney G. King beating when millions who saw the evidence were appalled by the verdict.

The same cases tried to different juries might even come out the opposite way. Those jurors all look oaths to do the right thing, even if the verdict is unpopular and rioting and death follow it, and even if some of those jurors afterward might rue their verdict. The public was not in the jury room and did not suffer the reality of the trial from the inside.

The break out from the system to "try" Ray's case implies that his case is one more symptom of a sick trial system and presents some troubling questions. Does a

trial seek to determine, much less ever achieve determination of, the truth? Does plea bargaining inevitably lead to cases like Ray's? Can the American judicial system survive the constant reopening of controversial cases through media revival? Are we, the American public, such victims of media mind warp that we cannot tell the difference between "Lethal Weapon" or "Terminator" or "Die Hard" and the reality of Desert Storm or the drive-by shooting down the street?

Like the views presented in the great Japanese classic "Rashomon," truth truly is in the eye of the beholder. Broad-based confidence in the result in controversial cases is rare even after full jury trials and the trials of history. Hypothetical or mock re-creations will not produce less controversial results.

Ah, you say, but a trial in the imperfect American system is itself imperfect. Witnesses lie, lawyers manipulate, judges are weak or wrong or strong, jurors bend or do not follow the law. There is no justice. The system does not work. Trial has failed as the last ditch and chaos is upon us—just remember the riots. Juries do

not reach just verdicts. Is that so? General dissatisfaction with the trial system does not prevail, even though there may be periodic dissatisfaction with particular cases. Else we would have persistent general rebellion.

History's enigmas make great stories. Did Booth really shoot Lincoln? Did Dr. Samuel Mudd deserve conviction for attending Booth? Did Oswald alone shoot J. F. K.? Did Claus von Bulow really try to murder Sunny? Unlike many of those enigmas from the past, Ray is still alive. Unlike many others, Ray entered a guilty plea. So, though Ray could have stood trial in the slaying of the Rev. Martin Luther King Jr. a quarter century ago, he did not.

Persistently, over the years, he has insisted on his innocence and, denied the chance to get a trial in a real court, he goes before the "more-or-less real jury" selected for the "HBO Trial" and the jury of public opinion. He hopes to get a new trial, clemency, or a special investigation. Apparently HBO and the producers want us to believe they have discovered a new form of investigative reporting.

Although there is nothing new here, there will be no harm to the system; nor will there likely be any change to it either. Ray has taken his case to state and federal court numerous times before. This "trial" will likely get him nowhere, but I would not fault him for trying.

On the other hand, I do not criticize HBO for its creation. I accept and defend HBO's, or anyone's, dramatic license to re-create any historic event in the name of art, entertainment, or exercise of the First Amendment. But, I sure wish that the public, including my students, would stop confusing television's and the movies' dramatic creations with reality.

Garland, a veteran trial attorney, is a professor at Southwestern University School of Law.