

MAY 2011

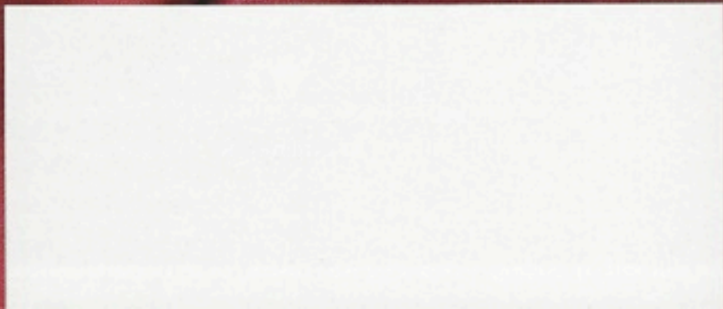
Washington Lawyer

THE OFFICIAL JOURNAL OF THE DISTRICT OF COLUMBIA BAR



The Transformation of Legal Education

By Sarah Kellogg



'SON OF SAM' LAWS:
HOW MUCH DOES
CRIME PAY?



Illustration by Ron Flemings

ON

July 11, 2010, after two years of evading authorities in eight states and three countries, the “Barefoot Bandit” was caught by police in the Bahamas.¹ Nineteen-year-old Colton Harris-Moore, infamous for his shoeless crime sprees, is awaiting possible prosecution of more than 70 crimes committed during his two-year run. Allegations against him include theft of airplanes,

luxury vehicles, and pleasure boats totaling more than \$3 million.

On July 9, two days before authorities caught Harris-Moore, *The Seattle Times* reported that his mother, Pam Kohler, had hired an entertainment attorney to handle “entertainment” interests related to the case.² The next day, the Associated Press reported: “Mom of ‘Barefoot Bandit’ Gets Entertainment Lawyer.”³ It’s certainly no surprise that a story of an alleged international teenage thief—who had more than 75,000 Facebook followers,⁴ learned how to fly a plane by reading an aviation manual,⁵ avoided capture for two years, and was named by *Time* magazine as “America’s Most Wanted Teenage Bandit”⁶—would be of great interest to publishers and film producers.

It might seem more appropriate that an individual who could be charged with more than 70 crimes should be more concerned with prison time than screen time. However, with headlines such as “Barefoot Bandit: Folk Hero or Crook?”⁷ and “Barefoot Bandit Busted: Arrest Draws Cheers, Sympathy”⁸ appearing in the press, the way in which a person’s story is told affects how the public perceives the accused. Harris-Moore and his mother were wise to act while the story was “hot.”

Harris-Moore is by no means unique. Criminals have been attempting to “legally” cash in on their crimes for more than a century. One of the first such documented cases is *Riggs v. Palmer*.⁹ In 1889 Elmer Palmer poisoned his grandfather, Francis Palmer, upon learning that Francis was planning to change his will and disinherit Elmer. In addition to Elmer, Francis Palmer’s two daughters were each to receive an inheritance. They filed to have Elmer eliminated from the will as a result of his actions and criminal conviction. The trial court disallowed Elmer’s inheritance, ruling that it would be offensive to public policy for him to receive it. However, in a dissent, Judge John Clinton Gray stated that

BY ETHAN BORDMAN

SON OF SAM

DAVID BERKOWITZ terrorized New York City, killing six people and injuring numerous others. Berkowitz referred to himself as the "Son of Sam," explaining later that the black Labrador retriever owned by his neighbor, Sam Carr, told him to commit the killings. Once captured, Berkowitz received numerous offers to have his story published.



Photograph courtesy of Getty Images

the demands of public policy were satisfied by Elmer's criminal punishment and that the law was silent on whether or not he could benefit from his crime.

Seizing the Money

Nine decades later, between July 1976 and August 1977, David Berkowitz terrorized New York City, killing six people and injuring numerous others.¹⁰ Berkowitz referred to himself as the "Son of Sam," explaining later that the black Labrador retriever owned by his neighbor, Sam Carr, told him to commit the killings. Once captured, Berkowitz received numerous offers to have his story published.

In an effort to end the "silence" noted by Judge Gray in 1889 and to thwart criminals from profiting from their crimes, the New York state legislature passed its now famous "Son of Sam" law, authorizing the state crime board to seize money earned from entertainment deals to compensate victims.¹¹

In 1985 Simon & Schuster published a book written by Nicholas Pileggi, titled *Wiseguy: Life in a Mafia Family*.¹² The book was about ex-mobster Henry Hill, whose 26-year career involved a variety of crimes, including the 1978 \$6 million Lufthansa Airlines heist. (Hill's story was subsequently turned into the 1990 Martin Scorsese film *GoodFellas*, starring Ray Liotta, Robert De Niro, and Joe Pesci.) The New York Crime Victims Board determined that the book violated the "Son of Sam" law, and that the publisher was required to turn over all monies to the crime board for victims' compensation. Simon & Schuster filed suit under section 1983 of title 42 of the U.S. Code,¹³ arguing that the law violated the First Amendment. At the time, the law had only been invoked a few times for criminals, among them Jean Harris, who was convicted of killing "Scarsdale Diet" Dr. Herman Tarnower; Mark David Chapman, John Lennon's assassin; and R. Foster Winans, a *Wall Street Journal* columnist convicted of insider trading.¹⁴ (Berkowitz, for whom the law was named, was deemed incompetent to stand trial and voluntarily paid his own book royalties to the crime board.)

The case eventually was taken up by the U.S. Supreme Court, which ruled unanimously in Simon & Schuster's favor, stating that "[t]he Government's power to impose content-based financial disincentives on speech, surely does not vary with the identity of the speaker."¹⁵ The Court further stated that the law was "significantly overinclusive" and the statute's broad definition of a "person convicted of a crime" would allow the crime victims board to take monies from any author who admitted to committing a crime, regardless of whether that author was ever accused or convicted.¹⁶ The Court noted that these two provisions would have affected hundreds of authors, including Dr. Martin Luther King Jr. (arrested during a sit-in at a restaurant), Sir Walter Raleigh (convicted of treason), and Henry David Thoreau (jailed for refusal to pay taxes).¹⁷ In 1992 the New York state legislature amended the law in an attempt to bring it into conformity with the Supreme Court ruling.

'Son of Sam' vs. Free Speech

Free speech concerns also were evident in California, in the case of *Keenan v. Superior Court of Los Angeles County*.¹⁸ In 1963 Barry Keenan, Joseph Amsler, and John Irwin kidnapped Frank Sinatra Jr., then 19, from the Harrah's casino in Lake Tahoe and drove him to Los Angeles. After two days, Frank Sinatra Sr. paid \$240,000 in ransom and his son was released. Soon after, Irwin bragged to his brother about the crime and his financial windfall. His brother contacted authorities later that night, and the three kidnappers were subsequently arrested and convicted.

Simpson himself was quoted as saying, "This was an opportunity for my kids to get their financial legacy. My kids understand. I made it clear that it's blood money, but it's no different than any of the other writers who did books on this case."

In July 2007 a Florida U.S. Bankruptcy Court awarded the book rights to the Goldmans, allowing the family to auction the rights to help satisfy the civil judgment against Simpson. Judge A. Jay Cristol ruled that Lorraine Brooke Associates was accomplished to perpetuate a fraud. Arnelle Simpson's attorney argued that the claim by the Goldmans could only be held against O. J. Simpson, not against the publisher, because any claims against the publisher would punish Arnelle Simpson as well.

Attorneys for the Goldmans stated they had contacted Hollywood studios and publishing houses to inform the entertainment industry that the rights to the story would be available to the highest bidder. The book was renamed *If I Did It: Confessions of the Killer* once it was published. Monies from the sale of the book go to The Ronald Goldman Foundation for Justice, which offers assistance to victims of crimes.

Even though some "Son of Sam" laws have been found to be unconstitutional, the Simpson case illustrates that crime victims do have other avenues of redress. Since the *Keenan* decision, California has created an updated code,²⁵ known as "Son of Sam II," which permits civil suits against defendants for damages when the defendants are convicted of certain felonies. The action, which can be commenced for up to 10 years after conviction (extended from one year), includes "serious felonies" such as any crime punishable by death or imprisonment for life, attempted murder, exploding a destructive device with intent to injure, and several sex crimes. This gives individuals affected by the crime time to prepare a civil suit.

As in the case of O. J. Simpson, civil suits also have proven successful when an individual is acquitted. The same held true for actor Robert Blake, the star of the television drama *Baretta*. Blake was found not guilty in the 2001 murder of his wife, Bonny Lee Bakley.²⁶ However, Blake was later found liable in a wrongful death suit and ordered to pay \$30 million to the family of Bakley.

Show Me the Victim

In Washington, the state from which Colton Harris-Moore escaped, the "Payment for reenactments of crimes" statute²⁷

prohibits the receipt of money for the portrayal of the "accused or convicted person's thoughts, feelings, opinion or emotions regarding such crime," stipulating that any such revenue should be "for the benefit of and payable to any victim or the legal representative of any victim of crimes committed."

The statute defines a "victim"²⁸ as "a person who suffers bodily injury or death as a proximate result of a criminal act of another person." There are, however, no allegations that Harris-Moore hurt anyone physically.²⁹ If it is proven or if the court considers that his actions have "harmed" people, his mother could still profit because she was never charged for any of the crimes relating to her son. Although Pam Kohler was in contact with her son during his two-year crime spree, her entertainment attorney, O. Yale Lewis, stated that conversations do not constitute "aiding and abetting."³⁰ Kohler never knew where Harris-Moore was calling from; she never contacted him and did not know how to contact him.

In 2000 the Court of Appeals of Washington ruled that Mary Kay Letourneau, a schoolteacher convicted of two counts of second-degree child rape, could keep monies from movies and book deals. In 1997 Letourneau, then 34, had a sexual relationship with her 12-year-old student Vili Fualaau.³¹ After being sentenced to six months in jail, she received offers to have her story published. The Court of Appeals ruled that Letourneau could profit from her story. Her attorney asked the court, "[i]s there any possible way we can argue with a straight face that our law is meaningfully different than the Son of Sam law in New York that was struck down?"³²

A French publisher contacted Letourneau's attorney, who brokered the agreement, and paid her a \$200,000 advance for the rights to the story.³³ The book, *Un Seul Crime, L'Amour* (Only One Crime, Love), was coauthored by Letourneau and Fualaau, and included a prologue by Vili's mother, Soona Fualaau. As with Harris-Moore's mother, the victim, Vili Fualaau, and his mother, would both be allowed to accept proceeds from the sale of the book because they were never convicted of a crime.

In 2005, at age 43, Letourneau married 21-year-old Fualaau, the student she was convicted of raping. *Entertainment Tonight*, the television entertainment news show, paid for exclusive access to their wedding but did not pay for the wedding itself.³⁴ The couple was permitted to keep the money because it was compensation for an event unrelated to the crime of rape.

THE GOLDMAN FAMILY believed that publisher Lorraine Brooke Associates was created solely with the intent to shield monies being paid to O. J. Simpson. In 2007 Simpson authored *If I Did It*, a hypothetical account of the murders of ex-wife Nicole Brown Simpson and her friend Ronald Goldman.



Photograph courtesy of Getty Images



Photograph courtesy of Associated Press

COLTON HARRIS-MOORE, also known as the "Barefoot Bandit" because of his shoeless crime sprees, is awaiting possible prosecution of more than 70 crimes committed during his two-year run.

Anyone Can Write About It

In an interview with *Good Morning America* on July 25, 2010, John Henry Browne, Harris-Moore's defense attorney, stated that his client did not want anyone, including himself, to profit from his story because "[h]e felt if he told it or gave it away, it would no longer be his story."³⁵

Under the First Amendment, however, permission from any subject—criminal or not—is not required to recount the events, as long as they are represented truthfully and accurately. Most states' "Son of Sam" laws only prevent the convicted and/or legal representative from profiting.

Ten days after Harris-Moore was arrested, 20th Century Fox announced that it cast the role of Harris-Moore after purchasing the rights to *Taking Flight: The Hunt for a Young Outlaw* by Bob Friel, who wrote about the "Barefoot Bandit" in the January 2010 edition of *Outside* magazine.³⁶

Studios would, of course, rather get the "official" version of the story by having the individual sell his story rights. This method has several advantages; most importantly, the story is obtained directly from the subject and likely includes details and inside information never before made public. Moreover, advertising the story as "official" or "authorized" by the subject may yield better publicity, resulting in greater movie ticket and book sales. Getting the story straight from the subject also helps to avoid any potential defamatory lawsuits that an "unofficial" version might produce.

Issues regarding an individual's right of publicity or right to privacy often arise during the writing of a person's life story. Each of these rights is designed to prevent the commercial exploitation of an individual's identity. The case of *Rosemont Enterprises, Inc. v. Random House, Inc.*³⁷ illustrates that not even a public figure can monopolize his own life story.

In 1966 Howard Hughes created Rosemont Enterprises, to which he gave the exclusive rights to his life story, in an attempt to prevent the publication of an unauthorized biography by Random House. Hughes sued Random House, accusing the publishing company of the commercial exploitation of his name, likeness, and personality; he also claimed the book would impair the market for an "authoritative" biography he was planning to publish. Hughes further claimed that his right to privacy, under the New York Civil Rights Law, was being violated.

The court dismissed all of Hughes's claims, ruling that the "statute gives a public figure no right to suppress truthful accounts of his life" and that "factual reporting of newsworthy persons and events falls within the constitutional protections for

speech and press."³⁸ The court's opinion concluded by noting that Hughes was attempting to prevent the conduct of Random House in publishing the book, not the content of his life story in the book itself.

Many versions of Mary Kay Letourneau's story were produced, each by a different creator. Gregg Olsen's book, *If Loving You Is Wrong: The Shocking True Story of Mary Kay Letourneau*, has been translated into 11 languages. *Mass With Mary: The Prison Years* by Christina Dress and *The Mary Kay Letourneau Affair* by James Robinson also were published. USA Network later produced the made-for-TV movie *All-American Girl: The Mary Kay Letourneau Story*, starring Penelope Ann Miller as Letourneau and Mercedes Ruehl as Letourneau's psychologist. A&E Television Networks' cable program *Biography* produced an episode titled *Mary Kay Letourneau: Out of Bounds*. Letourneau had no valid claim to any of the revenue derived from these titles.

Circumventing 'Son of Sam'

There are ways by which accused or convicted criminals have been able to circumvent their state's "Son of Sam" laws. In 1992 Amy Fisher, age 17, had an affair with Joey Buttafuoco, then 36 and married with two children.³⁹ In an effort to be with Buttafuoco, Fisher stopped by his home and shot his wife, Mary Jo, in the head with a .25-caliber semiautomatic pistol. After her arrest, Fisher arranged for television producers to pay \$80,000⁴⁰ for her bail in exchange for the rights to her story. This was permitted because no conviction had yet occurred. Fortunately, Mary Jo survived. Fisher ultimately pled guilty to first-degree assault and was sentenced to 5 to 15 years in prison.

Television networks ABC, CBS, and NBC each broadcast its own version of Fisher's story using different sources and points of view. All three networks received very high Nielsen ratings.⁴¹ Nielsen, the company that calculates TV ratings, bases them on the percentage of households in the United States. Ratings are tabulated each year in August to prepare for the upcoming fall TV schedule. The average rating for a show in 1992 was a 12 percent, with 1 percent representing 921,000 households.⁴²

On December 28, 1992, *Amy Fisher: My Story* on NBC, which had purchased the rights to Fisher's side of the story, received a 19.1 rating. When broadcast, it became the highest-rated TV movie of the 1992-93 season. On January 3, 1993, CBS, which had bought the rights to Mary Jo and Joey Buttafuoco's side of the story, aired *Casualties of Love: The 'Long Island Lolita' Story*, which received a 15.8 rating. That same

night, the highest-rated version of the story, ABC's *The Amy Fisher Story*—which incorporated multiple viewpoints and, thus, became the “unofficial” version—received a 19.4 rating, representing 17.8 million households.

Not only was this the first time any topic was made into a movie by all three networks; it was also the first time any two networks broadcast a movie about the same topic on the same night. These ratings show how captivating real-life stories can be.

In 2006, after being sentenced to 10 years for a shooting, rapper Jamal “Shyne” Barrow’s entertainment attorneys asked the court to lift the “Son of Sam” stay on a \$500,000 advance from Island Def Jam records.⁴³ Barrow’s attorneys asserted that money earned from their client’s labors—in this case, recording the albums—is not covered by “Son of Sam” laws because the work had nothing to do with the shooting. It was further argued that the monies should be released to the attorneys because a person’s right to counsel supersedes the compensation of the victims. A Brooklyn Supreme Court judge agreed with the argument and released \$100,000 to pay Barrow’s lawyers.⁴⁴

Is Notoriety Part of the Crime?

Notoriety that results from media popularity of a person charged with or convicted of a crime raises a number of issues regarding “Son of Sam” laws. Let’s consider monies paid for entertainment deals that are published or produced *before* the court’s decision. In these cases, no conviction has yet occurred.

In January 2009, former Illinois governor Rod Blagojevich was removed from office by the state legislature amid federal corruption charges alleging that he plotted to sell the U.S. Senate seat vacated by Barack Obama. A little more than a month later, in March 2009, just hours before a press release announcing that Blagojevich had signed a book deal, the Illinois legislature introduced a bill designed to prevent corrupt politicians from profiting. The book offer to Blagojevich was a six-figure deal to write about his life and politics.⁴⁵

The Elected Officials Misconduct Forfeiture Act⁴⁶ took effect in Illinois on August 18, 2009, to stop public corruption as an “extremely profitable criminal enterprise.” The law states that any elected official who is terminated by law, or who resigns from office and is convicted of misconduct related to his time in office, must forfeit monies derived from the corrupt activity. The Attorney General is allowed to take “any interest in property of any kind acquired through or caused by an act or omission, or derived from the act or omission, directly or indirectly, and any fruits of this interest, in whatever form.”⁴⁷ Monies would be deposited into the General Revenue Fund or the appropriate corporate county fund.

The Illinois state Senate later passed a more detailed version of the act,⁴⁸ which was introduced in January 2010 and went into effect January 1, 2011, to supplement the House bill.

Referring to the infringement on Blagojevich’s First Amendment rights, Jeffrey M. Shaman, a constitutional law professor at DePaul University in Chicago stated, “I think [the law] has very serious constitutional problems.”⁴⁹ Regarding notoriety from the events, Shaman said the law has no clear definition of what income is “traceable” to Blagojevich’s wrongdoing.

Blagojevich signed the book deal and was paid a portion of the agreed-upon compensation *before* the state anticorruption law was passed—and *before* the law was even introduced. Blagojevich’s book, *The Governor*, was released in September 2009.

On August 17, 2010, Blagojevich was convicted of one count of making false statements to federal authorities.⁵⁰ Since no law existed at the time he was convicted, he should be allowed to

keep the money from the book deal, though it is up to the Illinois Attorney General to decide whether the state will attempt to get the advance from the publisher.

What about monies paid to the individual that are not directly related to the crime of which he was convicted, but are produced because of his notoriety? In November 2009, before his trial began, Blagojevich was paid an undisclosed amount for his appearance on NBC’s *Celebrity Apprentice*.⁵¹ On the celebrity version of this business-themed reality show, famous contestants play to raise money for a charity of their choice. Blagojevich hoped to win the first prize of \$250,000 for the Children’s Cancer Center in Tampa, Florida. He previously had been offered \$123,000 to appear on *I’m a Celebrity . . . Get Me Out of Here!*, another NBC reality game show in which celebrities live in a jungle and compete for prizes.⁵²

A U.S. district court judge ruled that Blagojevich was prohibited from traveling to the taping location in Costa Rica because his passport had been revoked and there was concern about his potential refusal to return to the United States for trial. Blagojevich told the court that his participation on the show was necessary so he could earn money to support his children.

Although Blagojevich himself was the ratings draw, a compromise was reached, allowing his wife Patti to travel to Costa Rica in his place. However, the fact that Blagojevich was not allowed to leave the country to film the show and earn money for his family (a lawful activity unrelated to his alleged crimes) illustrates that, in some instances, a third party—in this case, Blagojevich’s two daughters—may suffer penalties as a byproduct of a person’s notoriety.

Although prosecutors did not attempt to block his appearance on *Celebrity Apprentice*, which was filmed in New York, they had concerns about remarks he might make on the show and how his words could affect potential jurors. If Blagojevich had been stopped from competing, the charitable organization for which he played—which was unrelated to his alleged crimes—could have lost the opportunity to be awarded \$250,000 were he to win the contest.

There are also situations where people intentionally break the law to make money, thus creating notoriety. In the 2009 “Balloon Boy” hoax, Richard Heene and his wife, Mayumi, pled guilty to the felony of attempting to influence a public servant and the misdemeanor of false reporting, respectively, after placing a fake 9-1-1 call to authorities. The Heenes claimed their son was trapped in a saucer-shaped helium balloon that the family was using for an experiment.⁵³ The hoax was an effort to promote a reality TV show featuring their family, which they hoped would be produced.

A few days after the incident, during an interview on *Larry King Live*, the Heenes’ 6-year-old son, who was allegedly “trapped” in the balloon, said: “We did this for a show.”⁵⁴ The Heenes had appeared on the ABC reality series *Wife Swap* twice before and were hoping for a show of their own. Authorities spent an estimated \$46,000 in overtime pay for law enforcement and use of National Guard helicopters in their search for the 6-year-old, who the family later admitted was hiding in their attic.

Jail Time Trade-Off

In October 2010, during a political rally in Philadelphia, President Obama was startled by the appearance of a 24-year-old streaker.⁵⁵ Juan J. Rodriguez ran nude in front of Obama in an attempt to win a contest run by BattleCam.com, a 24-hour interactive reality channel. BattleCam.com offered \$1 million to the first person to streak in front of the president, with the words “BattleCam.com” painted on his or her chest, while screaming

"BattleCam.com" six times within earshot and eyesight of the president. Rodriguez was arrested for indecent exposure, disorderly conduct, and open lewdness.

After the act, a spokesman for BattleCam.com stated that he was not sure Pennsylvania law would permit paying someone to commit an illegal act. In this case, the inducement to break the law was the monetary prize; there was no need to worry about a conviction. Further, Rodriguez was not in collusion with the Web site because BattleCam.com did not force him to participate; instead, he simply responded to an offer. It may be also considered a small trade-off to pay a fine of several hundred or even several thousand dollars and some jail time in exchange for \$1 million and a few seconds of "exposure."

Follow the Law

"Rod Blagojevich does it innocently," intones the voiceover in a TV advertisement that features the former Illinois governor as he opens a briefcase full of pistachios and cracks open a nut.⁵⁶ Blagojevich, who does not speak in the ad, signed on as an endorser for Wonderful Pistachios in the company's "Get Crackin'" campaign.

In a news release, Blagojevich said "[t]he contents of the suitcase are like the accusations against me—they're nuts." Blagojevich said his compensation, which he did not disclose, will be used to pay his family's mortgage. This is another example of capitalizing on notoriety to avoid "Son of Sam" laws, since enjoying pistachios has nothing to do with lying to federal authorities.

The former governor's case illustrates that the best way to protect your interests is to follow "Son of Sam" laws carefully. Most statutes refer to profiting from the crime directly; this includes selling the client's story for the creation of entertainment projects such as books or films.

An unexpected twist in a recent case allowed a killer to inherit \$241,000 from his victim. In 2008, Brandon Palladino killed his mother-in-law, Dianne Edwards, while robbing her New York home. More than a year after the murder, Palladino's wife, Deanna—the sole beneficiary of her mother's estate—died of a drug overdose. Because Brandon and Deanna had no children, he stands to inherit the entirety of the victim's estate. "Son of Sam" laws do not apply here, because Palladino's inheritance will not come from his victim, but rather from his wife—who had inherited it from the victim.⁵⁷

It is important to remember that most statutes were written before the era of reality television. Most laws do not include the issue of notoriety that results when an individual becomes a public figure or media celebrity, whose fame is not related to the alleged crime or conviction. As long as reality TV programs continue to thrive, any individual who gains notoriety from even the smallest association with a criminal act becomes fodder for this genre, and maybe even a commercial or two.

Ethan Bordman received his master of laws degree in entertainment law from the University of Westminster in London. He earned his juris doctor from the University of Detroit School of Law and his master's degree in business administration from the Wayne State University School of Business Administration. He practices entertainment law in New York, the District of Columbia, and Michigan.

Notes

- 1 Holtz, Jackson. "After Two Years, One Chapter of Colton Harris-Moore's Escape Comes to a Close." *The Daily Herald*, July 12, 2010.
- 2 Sullivan, Jennifer and Mike Carter. "Mom May Try to Cash In on 'Bandit' Son," *The Seattle Times*, July 9, 2010.
- 3 Associated Press. "Mom of 'Barefoot Bandit' Gets Entertainment Lawyer," July 10, 2010.

- 4 Owens, Ryan and Sarah Netter. "Barefoot Bandit' Busted: Arrest Draws Cheers, Sympathy," *ABC News—Good Morning America*, July 12, 2010.
- 5 McGirk, Tim. "America's Most Wanted Teenage Bandit," *Time*, December 21, 2009.
- 6 *Id.*
- 7 Fantz, Ashley and Gabriel Falcon. "Barefoot Bandit: Folk Hero or Crook?" *CNN*, July 13, 2010.
- 8 Owens. "Barefoot Bandit Busted."
- 9 22 N.E. 188 (1889).
- 10 Moritz, Owen. "Son of Sam—The Capture," *The New York Daily News*, 2007.
- 11 N.Y. Exec. Law § 632-a. (Lexis 2001). Enacted in 1977, repealed and replaced in 1992.
- 12 *Simon & Schuster v. Members of the New York State Crime Victims Board*, 502 U.S. 105 (1991).
- 13 42 U.S.C. § 1983 (1996).
- 14 *Simon & Schuster*, 502 U.S. 105, 111.
- 15 *Id.* at 117.
- 16 *Id.* at 121.
- 17 *Id.* at 121–22.
- 18 27 Cal. 4th 413 (Feb. 21, 2002).
- 19 Cal. Civ. Code § 2225.
- 20 *Keenan v. Superior Court of Los Angeles County*, Super. Ct. No. SC053294 (Dec. 22, 1998).
- 21 *Id.*
- 22 *Kernan v. Superior Court of Los Angeles County*, 27 Cal. 4th 413, 432, (Feb. 21, 2002).
- 23 *Id.* at 435.
- 24 Francesceni, Chris and Bacon, Brittany. "If I Did It: O.J.'s Daughter's Idea," *ABC News*, June 15, 2007.
- 25 Cal. Code Civ. Proc. § 340.3. Enacted in 2002, replaced Cal. Civ. Code § 2225 (enacted in 1983), repealed in 2002.
- 26 Deutsch, Linda. "Blake to Appeal Wrongful-Death Verdict," *Associated Press*, May 8, 2006.
- 27 Wash. Rev. Code § 7.68.200 (2009).
- 28 Wash. Rev. Code § 7.68.020 (3) (2009).
- 29 Johnson, Gene. "Could Feds Keep Barefoot Bandit, Mom From Profit?" *Associated Press*, July 19, 2010.
- 30 Komo 4 News—Seattle. "Atty: Harris-Moore Can Legally Profit From Movie Deals, Etc." July 15, 2010.
- 31 CNN. "Literary loopholes," June 14, 2005.
- 32 *Ibid.*
- 33 *Ibid.*
- 34 *Seattle Post-Intelligencer*. "Letourneau Marries Faulau Amid Media Circus," May 21, 2005.
- 35 Associated Press. "Barefoot Bandit' Not Interested in Selling Story," July 26, 2010.
- 36 Johnson, Ted and Pamela McClintock. "Fox Gearing Up for 'Barefoot Bandit,'" *Variety*, July 21, 2010.
- 37 58 Misc.2d 1 (1968).
- 38 *Id.* at 5.
- 39 Treen, Joe. "Sex, Lies & Videotapes," *People*, Oct. 12, 1992.
- 40 Treen. "Sex, Lies & Videotapes."
- 41 Carter, Bill. "Amy Fisher Story a Surprise Smash in 3 TV Movies," *The New York Times*, Jan. 5, 1993.
- 42 Corporate Communications, The Nielsen Company, Aug. 6, 2010.
- 43 Kaufman, Gil. "Shyne Becomes Moses, Challenges New York 'Son of Sam' Law," *MTV News*, March 7, 2006.
- 44 Katz, Nancie L. "New York Minute. Shyne Gets OK to Tap Cash," *New York Daily News*, April 27, 2006.
- 45 Wilson, Jordan. "Blagojevich Lands Six-Figure Book Deal," *Chicago Sun-Times*, March 2, 2009.
- 46 Illinois HB 4078.
- 47 Illinois HB 4078 (5).
- 48 Illinois SB 2551.
- 49 McKinney, Dave. "Legislation Won't Let Blagojevich Cash In on Book Deal," *Chicago Sun-Times*, May 21, 2009.
- 50 Davey, Monica and Saahny, Susan. "Blagojevich, Guilty on 1 of 24 Counts, Faces Retrial," *The New York Times*, Aug. 17, 2010.
- 51 Moore, Frazier. "Blagojevich to Compete on 'Celebrity Apprentice' for Charity," *Chicago Sun-Times*, Jan. 5, 2010.
- 52 Korecki, Natasha. "Judge Says 'No' to Rod Blagojevich Reality Show," *Chicago Sun-Times*, April 21, 2009.
- 53 Marikar, Shelia. "Balloon Boy Parents Richard Heene, Mayumi Heene Get Jail Time, Probation," *ABC News*, Dec. 23, 2009.
- 54 *Ibid.*
- 55 Netter, Sarah. "Instant Replay to Decide Whether Obama Streaker Wins \$1 Million," *ABC News*, Oct. 12, 2010.
- 56 Korecki, Natasha. "Rod Blagojevich Goes Nuts," *Chicago Sun-Times*, Nov. 1, 2010.
- 57 "Convicted Murderer to Receive Victim's Fortune," *New York's WPIX-TV* 11, Jan. 3, 2011.