

Who's In Charge Here

The apocrypha Interview: Rene Balcer

By Kitteridge



Yeah, it's Dick Wolf's show, but that's a bit like saying Colonel Sanders is Kentucky Fried Chicken. The real brains behind the outfit these days (and the person considerably less heralded in the press) is West Coast Executive Producer Rene Balcer. As well as having a hand, either directly or indirectly, in every *Law & Order* script that goes to air these days, he's the vision behind the overall feel of the show. Notice that Jack McCoy is the most multi-faceted, well-developed character on the show? No surprise that he's also Balcer's favorite to write about. When *apocrypha* caught up with Balcer, the 200th episode media blitz was just getting started, and "Refuge" was still a working title, rather than the official name for the two-hour season finale.

How does one find Rene Balcer? Well, the week of this interview he was on the East Coast, rather than back with Wolf Productions and the writing staff in Los Angeles. So once you've managed to make your way to the unwieldy, docks-meets-theme park atmosphere of the Chelsea Piers, it's merely a short stroll down a concrete-block bricked hallway decorated with oversized black and white movie stills, and up a flight of stairs. (The industrial-teal painted elevator takes ages.) Once up on the second floor the décor resembles a high school theater wing; very low-key, very unsupervised. Is it a coincidence that the first large movie poster to greet the eye after emerging from the steps is Sam Waterston's *The Killing Fields*? Hard to know. After locating the hectic, crammed-together production office, an intern points out Balcer's actual location -- an office down the hall, to the left. Ah, yes, an office. Something much more befitting a big-time Hollywood producer, right?

Not a chance. Balcer's stashed himself in the far back corner of an unadorned, gray and white set of rooms room where casting is normally done (a blank casting sheet sits unnoticed on a table), but which today is empty, quiet, and solitary: A writer's paradise, if not an interior decorator's. Decked out in sweats, hunched over his laptop, the first part of "Refuge" sitting in a stack on the corner of the desk, Balcer doesn't immediately rise from his desk, but he's relatively cheerful. Any hesitation is soon explained: He hurt himself earlier that day getting out of a car, and just recently took medication for his back. During

the chat, one thing becomes clear: Sometimes, fans think about this show a whole lot more than the writers do. What seems calculated and planned from an outsider's point of view may, in fact, merely be a tossed-off aside to a writer, or a creative indulgence. Hard to believe something this well done could be this slapdash...but it's a formula that appears to work, and has continued to draw in fans for the past nine years. Better get started -- once that medication kicks in, who knows what's going to make it on to tape....



How would you say the show has changed since you started, in the first season?

I think the issues that we deal with are less obvious than they were in the first season. The first season you had an embarrassment of riches: abortion, gay rights, this and that and then once you've done those, the issues come a little less obvious. If you're going to do an abortion show, what's the new twist? Or if you're going to do a rape show, what's the new twist there? And in some ways we've gotten more into the characters -- not so much into our main characters, but into the characters of the guest stars, the guest killer of the week. So the show has taken on more of a psychological aspect in some of the episodes. But things keep coming down the pike. This season we had a show inspired by the Abner Louima assault, by the Jasper, Texas killing, which was the guy who was dragged. But I think the show in many ways has gotten more complex in its treatment of the issues and of the characters.



Has the writing changed significantly?



Hopefully for the better.



Are there more collaborations between writers now, or do people still write scripts solo?



It's stayed pretty much the same. Each script has almost always been one or two writers at the most, but in the first two or three seasons there were a lot of collaborations. You'd often find three or four different names on the script, and you don't see that much any more.



In a previous interview, writer David Black made it sound as though when you come out with new scripts for the season, that there are a list of ideas, these are things you want to do, and they get assigned to particular writers.

We usually start out, we have maybe a dozen ideas of things we want to do, over the course of a season. And some of those get assigned -- some writers have a particular affinity for this or that story, but then they something hot comes out at the moment and we'll grab it, so we'll leave plenty of room for a little improvisation. Eventually, all the stories get done, but I'd be lying if I said we have 24 stories. The season finale, I'm writing the two-parter, which is going to run back to back, 9 o'clock and 10 o'clock, and basically I came up with this idea three weeks ago. The idea for the crossover with *Homicide*, the one with the Ken Starr lookalike, the Vince Foster thing, I had that idea last February, when Ken Starr was starting to go after Clinton.

A:

Q:

Homicide Executive Producer Tom Fontana had said that you all were hoping that the whole Clinton thing would drag out a little longer so the story would be timely!

A:

Yeah, drag it out a little longer, don't resolve it too quickly! So there again, there's no hard and fast rules for any of this, whatever comes up.

Q:

So, in general, what is the writing process like from idea to completion?

Well, first of all, it takes as long as we have. So if we have three weeks, we'll take three weeks, if we have three months, we'll take three months. Usually I'll assign a story, except in cases where I'm doing the story myself, I'll supervise the beat sheet, and usually it'll involve one or two writers working as a team, and we'll beat it out, and I'll sort of drop in periodically, check their progress, toss in whatever ideas they might need to resolve any story problems they might be having, it'll go to teleplay, they write, I give notes, they write, I give notes, and that's the way it happens. And then once we get a completed draft, we send it out here to the East Coast

A:

production, and they go through it, they have their notes, which can range from anything from "You can't get green trucks" to they don't understand why this character behaves this way or that. It's pretty freewheeling. We don't really care where a good idea comes from, as long as the good ideas come. So if somebody points out a problem, it doesn't matter who they are, they could be a production assistant on the set, so it's pretty collaborative on that level.

Q:

It almost sounds like putting together a news story for a newspaper -- the assignment editor shows up, hands out stories....

A:

Yep. Right, pretty much that.

Q:

Who's in charge of overseeing the script once it gets to the East Coast?

That's Ed Sherin, who's the East Coast Executive Producer. Once it comes here, he and I do double-duty on it, we share the chores on that. Then the writer comes out here for a read-through with the actors, and then notes, more and more rewrite rewrite rewrite until it's all shot, and then that's it. Tremendously exciting stuff, you know?

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Q:

Hey, I'm a fan of the show, so it's tremendously exciting for me. How heavily is Dick Wolf involved in the process?

Well, Dick, at the beginning of the season, will participate -- we have a meeting where we throw out ideas, if there's a news story he's been following, he'll throw that into the mix. At the start of the season, we have a meeting with all of the writers, and Dick opens up a file, and he has some news clippings of stuff that caught his attention, so that gets thrown into the mix. And then during the course of a season, he'll read the latest draft or two of the scripts, and if he has an overriding concern he'll call and let me know, or he'll call if he suddenly saw something on the news that he thinks would make a great story. But the day-to-day stuff, the reason he hired us is so he doesn't have to worry about the day-to-day stuff. His style of management is you hire the best people you can for the job and just let them go.

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Q:

So he'll approve all story ideas, but he doesn't necessarily say yes or no to any one script.

Yeah. The approval of the story ideas, he has a lot on his plate, so for example the 200th episode -- if it's a show that's particularly high-profile, after like a 200th episode, or the crossover, he'll approve of a story idea, but otherwise, basically, he's hands-off.

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Q:

60 Minutes did a piece not long ago about *Law & Order* writers being the oldest average age in the industry --

A:

We saw that, and said "My God, too many old people," so we got rid of them all. Now we have fetuses writing for us.

Q:

Does the show benefit from having more seasoned writers, as opposed to a show like *Felicity*, which needs 19 or 20 year olds?

Well, I don't know that *Felicity* needs 19 year olds, honestly. I think any show benefits from having somebody with life experience, and people in their 30s, 40s, or 50s don't have a monopoly on life experience. I've met a lot of people in their 20s or late teens who had

A:

lived nine lives. Age is not a criteria one way or the other. It really is what they have experienced. We have one writer, who's in her early 30s, and we've had writers in their late 20s over the years. A good writer is a good writer. We don't go out looking to hire people because of their age. That would be reverse ageism.

Q:

Going back to what we were first talking about: The show, when it first started out, really took the prosecutorial angle of individual personal responsibility -- you can't blame your crime on your medicine, etc. Has that changed at all?

No...as you start looking at certain issues more closely, there are more shades of gray, and the show has always dealt with the gray areas of the law, and different degrees of culpability, nothing's black and white. I don't even know that in the early shows that it would be fair to say that, "You're culpable, you're culpable, that's it." We did a show two years ago where a drunken driver had killed three people ["Under The Influence"], and under the law a vehicular homicide by someone who is intoxicated is a lesser charge than murder two,

A:

murder with intent. Yet our district attorney wanted to prosecute the guy for murder one. The fact that he was drunk made no difference as far as his culpability. So that's an example that even in our later shows we're taking the attitude that you ascribed to our earlier shows -- your culpability, whether you're on drugs, or on medication, or whether you're drunk, you're culpable. If you do the crime, you do the time. By the same token, there's other shows where there were mitigating factors, which leads us into the gray areas, and that's the appeal of the show -- it's not necessarily white hats and black hats.

Q:

Coming out of the touchy-feely 90s, that stance was unusual for a show.



It definitely has a prosecutor's bias.



Do you have a favorite script you've ever done?



Usually the one I've just finished. I have a lot of favorite ones.



Do you have a favorite character to write for?

I think McCoy is the one I enjoy the most. If only because he gets -- he's in the back half, which is where the chickens come home to roost, and that's where the trickier ethical dilemmas rear their heads.



So I like painting Sam's character into ethical corners and seeing how he wriggles around. The other guy I like writing for is Steven Hill. You write a line for him, he'll say, "Too many words," and you cut the words and he'll say, "Too many syllables," so you cut the syllables....



Does it work down to that?



With him, unlike a lot of actors, he likes fewer lines.



He gets a few gruff but lovable sentences and he's fine.



Yeah.



What's the hardest thing about putting together the script?

Just coming up with new twists from week to week. I think...I don't know if we've covered every single way of finding a body, but we've come pretty close. Short of them being teletransported into the DA's office. I think mostly that, coming up with the new twists. And then, of course there's the deadlines, and that's something every TV series has to cope with.

A:

Q:

You were talking about the new twists -- do you ever read about a particular court case or law and that's where the story comes from?

Sometimes. That gets to be the tail wagging the dog. I'm more interested in the situations that characters get themselves in. I'll read a character portrait in *The New York Times*, a schizophrenic attorney, and that'll be the jumping off point for a story. The legal twists -- sometimes I'll get somewhere in Act Three, and I'll go "Oh, darn!" I'm looking for a twist, so I go into my file. One time I found at the last minute a case where the defendant had a heart attack and he made what he thought was a deathbed confession, or he made an admission to a doctor, he didn't know there was a cop in the room, and there was a big legal argument about whether that was admissible against him, and I turned that into a funny legal twist, the guy having a heart attack in the middle of an interrogation. So -- I'll find things at the last minute. The legal twists aren't usually what drive the stories that I do.

A:

Q:

Who's in charge of character development? I know the show doesn't focus heavily on it.

I think that's mostly a thing between Ed Sherin, Dick and I. And the actors, also, who have to read through it. They are so focused on their own particular character that they will track that character throughout the series and because we drop information with an eyedropper, unlike other shows where it's easy to remember that so-and-so went off the wagon and is now back on the wagon, and in the middle of a divorce, because that's basically what the show is about. Our show is not about that, so sometimes those little character details tend to get forgotten and the actors are there to remind us.

A:

Q:

There's no Bible [Editor's note: a book where all the canonical information is kept] for the show.

A:

No -- to the endless frustration of freelancers, we don't have a Bible.



Are the three of you then in charge of creating the new, long-running characters like Abbie?



A lot of it takes place in the course of writing the first script, those decisions are made. The characters will be broad-stroked and then the fine-tuning will take place during the first two or three scripts.



Is there a conscious effort to give a new character more room in early episodes?

That's changed. It really depends on the story. The story is what



drives -- we don't set out and go, "Oh, here's an episode for Carmichael." It's really what drives the story. If it seems organic to the story to let her or McCoy have a bigger role, then that's what happens.



So it's not so much of a calculated thing, it's more of a creative thing. Is that typical for a Hollywood production?



What, that creativity drives the show? God, I'd hate to think so.



Well, it feels that with other shows you can look and say, "This person makes the most money on the show, therefore they get the most screen-time."



No. We don't feel the need to service this or that character. We can give them each their ten minutes per episode. It really depends on the story or the needs of the scene.



Does *Law & Order* hold itself up to a higher level of believability than other shows?

The cases are real, I don't know if the police work really involves as much Sherlock Holmes stuff that we do -- a lot of police work is sitting around the squad room waiting for informants to call in with tips, which doesn't make for tremendously exciting drama, so our



guys are probably more pro-active in that regard. But whatever they do do, we want it to be believable. We don't have them jumping out of windows and killing ten guys with one bullet, or stuff like that. If they're going to be doing something, it will be credible and possible. If they have some method of detection, or whatever.



Where do you get your staff of writers from? Do they send in scripts and say, "Hire me"?



No, their agents send in scripts and say, "Hire them." Mostly it's through agent submissions, and we get a lot of scripts, and there's a lot of triage that goes on.



And what's the difference between someone who just freelances every so often, or someone who sits in on a staff meeting in California?



No, at the beginning of the season, the writers' meetings are with the all of the writers on staff.



So you don't all come together regularly.



No, we're kind of unusual in that way, we don't have a regular weekly writers' meeting. On shows that have character arcs and they need to keep track of the master plan, in the course of the season where Dr. so-and-so is going to be having his affair with Nurse so-and-so, they need to have those meetings. Our show is pretty close to an anthology series, so I don't think we have to worry about character arcs too much.



This is not a show you can really have idly playing in the background while you go and do other things. Do you ever worry about going over the heads of the audience, or giving them too much information at once?



No. If it passes muster with everybody on the crew and the cast, I think they're fairly representative of the audience. I think the audience will stay with it. I mean, we always like to keep one step ahead of the audience. On one viewing, the audience may not get everything, which is why the show does so well in syndication, it bears second and third viewings very well.



And you can watch it out of order.

A:

Yeah. And so, in a way, I wouldn't quite say it's deliberate, but we cram a lot of story in an hour. And it's nice to know that with each viewing, you can get something you didn't get the previous time.

Q:

You referred earlier to the show having taken a page from the Abner Louima story. The show has been closely identified with New York's love affair with the police force, but these days, the pendulum seems to have swung in the other direction.

A:

Those kinds of incidents have always been around. The NYPD did not invent bias against minorities. You'd find that problem in a lot of police departments. As far as the pendulum swinging -- I think what people don't like is that it's tolerated. I don't think the pendulum is swinging against the police department or prosecutors.

Q:

Will the show address it more closely?

A:

We've addressed it this season about --

Q:

Corrupt cops.

A:

Well, corrupt cops, or the police culture and how that breeds a certain kind of...looking for the right word...kind of a skewed view of society, and the problems you get with closed societies like police departments, where the bad apple tends to bring the rest of the department down to its level because the department tries to protect the bad apple. But I don't see that there's a massive societal swing against the police department. The police have always gotten a mixed review from the public, anyway, certainly from the minority communities, so this is nothing new.

Q:

Can a show be too ripped from the headlines sometimes? I'm thinking about the teens who killed their baby, and how that show aired either before they even got to trial or --

Well, there were like five or six cases in the previous year, all involving middle class kids who killed their newborn, so it wasn't necessarily this or that crime that we dramatized. It was an amalgam, it just was a coincidence that it took place at the time when the New Jersey case was going to trial. But on our show, she got off, so her lawyer couldn't have hated that.

A:

Does the show work better when the headlines have had time to ferment in the public consciousness, or is it better to leap on it right away?

Q:

You'd have to ask the audience. We haven't had any post-viewing tracking for that kind of stuff.

A:

When you're working on the script sometimes, do you ever wish that the show's parameters weren't so defined, so you could go off and do more episodes like "Aftershock," for example?

Q:

Yeah, uh...(rolls eyes at "Aftershock" mention) ... Without going to the extreme of "Aftershock", we have done stories that had a more personal bent to it, like the drunken driving show, or the last four episodes of last season. But the short answer is no, I don't find the format necessarily that confining, I don't have a great need for our main characters to go off and ramble in some monologue about life and death. To me, that's not all that interesting.

A:

And it's done on other shows.

Q:

Right.

A:

You've written how many scripts?

Q:

This is 60, and then 61.

A:

I was just wondering if you'd want to start playing with the form.

Q:

A:

I wouldn't do it on a TV show. If I wanted to play with the form, I wouldn't do it on *Law & Order*, I'd go do my own show.

Q:

Back to "Aftershock" and pre-that: The show was, for a time, going with more personal stuff -- the relationship between the DAs, and then in "Under The Influence" worked with the fact that one DA died in an accident disposed another DA to act a certain way. Do you think that's successful when you all do that?

A:

I think it's to the degree that you do it -- we did some of that last year as kind of a changeup, to keep the audience interested, and a lot of the members of the audience really liked it, some felt it was --

Q:

So you do do audience tracking!

Well, insofar as I'll check the Internet, and also we get letters, and some letters were for, some were against, it was kind of a mixed bag.

A:

I think where it hurts us is in the syndication. If we don't do completely stand-alone stories, it gets hard to play them out of order, and syndicators aren't necessarily thrilled with that.

Q:

So are you backing off of that a bit more?

A:

We did it at the end of last year for the last four episodes for ratings, and also I was intrigued by the idea of having the season end on kind of a cliffhanger for each of our main characters. Something I did because I felt like doing it!

Q:

So...did Jamie sell McCoy out or not at the end of last season?

A:

(Grins wickedly) That may get resolved. You may find that out.

Q:

Is she one of the returning characters for the 200th?

A:

No, for the 200th, we don't have any returning characters.

Q:

Oh, I had thought I'd read that.

A:

Not in the 200th. But later on, maybe. Later on, maybe, yeah. In here. (Taps "Refuge" script.) It's called "Refuge," and that's only a working title. I haven't written part two yet, I'm still figuring it out.

Q:

Speaking of her character and other female characters, do you think the show has managed to portray women successfully?

A:

Well, you have to ask women.

Q:

(Pointing at self.)

A:

I guess you could answer that question.

Q:

But you're the writer.

A:

Well, it certainly portrays women that I've known.

Q:

It's a real guy show, though. Guys are in charge, guys are the cops, guys are -- the women of the show, in my perception, and I love the show so this is just one element, but in my perception the women of the show have ended up being defined, in one way or the other, sexually. One's sleeping with the boss --



That was only one.



People get raped -- Olivet and Abbie were both raped. Jamie, everybody leers at Jamie.



Did you know Steven Hill got raped? No....



This is just my perception, and I do love the show, but...

Well, it's funny, because we get a lot of mail, on the Internet, and that's not necessarily representative of the audience, but in the case of Abbie, they like the fact that she stands up to McCoy and doesn't take any crap from him, and is pretty much her own person, and has her own relationship with Adam Schiff, and isn't afraid to voice her opinion and isn't subservient to Jack McCoy in any way.



McCoy goes to her office! She has an office!

Yes. But as soon as you have a story -- Anita Van Buren's character, she's the boss of these two men. But if the DA's male, and the executive ADA is male, then anyone else you hire, is going to necessarily going to be reporting to those two. So the fact, oh, yes, I guess you will have -- you can report to somebody without being subservient, and if you look from the character of Claire Kincaid to Abbie Carmichael, I think you see a pretty clear evolution. And a lot of it has to do with the experience that each one of those characters had as DA. Claire Kincaid, her character was fairly new in the DA's office. Jamie Ross had quite a bit of experience as a defense attorney. And Abbie Carmichael has 5-6 years of experience in the narcotics bureau, so it's more of a function of her experience as a lawyer, the status that she has.



How does the timeline of the show work in your head? Consecutively or concurrently?

A:

ADA's handle several cases at once, and they overlap and all of that. One is starting while the investigation of another is going on, or maybe they'll be having a trial or three at the same time.

Q:

The way Dick Wolf has worked in the past, it looks like it's about time for someone else to leave the show. Most people don't last past about five years. Do you have any contingency plans if Orbach or Waterston leave?

A:

Mmmm....no.

Q:

You just write it when it happens?

A:

Yeah.

Q:

What about Steven Hill?

A:

I think Steven will retire on this show. I don't think he's going anywhere. Maybe a variety show for Steven Hill.

Q:

How will the new deal between NBC and USA affect the show?

A:

That's with the other show [*Law & Order: Special Victims Unit*], not *Law & Order*.

Q:

Another producer won't be showing up on *Law & Order*?



No. You're talking about the repeat window? That's not *Law & Order*, that's the new show.



Is that show going to be somehow connected to *Law & Order*?



I think the idea with that show is to be done under the *Law & Order* brand. One or more of the previous characters from *Law & Order* may appear on that show. There may be some cross-pollination.



Will you be writing for that show?



No, this takes up enough of my time.



You'd mentioned the Internet. Do you monitor what people say?



I wouldn't say I monitor, but...basically --



Mailing lists?



No, there are some newsgroups I'll check into now and again, as an excuse just to not write. Or for any diversion.



You were quoted in *The New York Times* as being aware of fan fiction. How do you feel about that?



I have no problem with it. As long as they don't start writing any of it about me!



Do you read any of it?



No. Probably just as well.



Some writers have in the past gotten very touchy about it, "Oh, you're stealing our characters."



No, I don't have a problem with it.



To what do you attribute *Law & Order's* longevity?

The fact that it is as close as you can get to an anthology show, without having an anthology show. The longevity has to do with the storytelling style -- that it does bear several viewings, and we don't pander to the audience, we're always trying to keep one step ahead of the audience. Good writing, good acting, good directing. And a lot of luck.



apocrypha

[whaddya think?](#)