

## **RadioDoc Review**

**Volume 4 • Issue 1 • 2018**

2019-01-28

### **Serial, Season Three: From Feeling to Structure**

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In addition to meticulous structuring, Koenig needs all her charm, all her storytelling prowess, and all the wry humour she can wring from the cases she investigates, because the story of the Cleveland Justice Center is an American horror story. It is a damning indictment of the toxic stew of white supremacy, class divides, a punitive philosophy of corrections, and bureaucratic malfeasance that makes it nearly impossible for justice to be served. In a set of several stories about individual cases that occasionally overlap, spill over into different episodes, and circle back through coincidences and thematic unities only to fracture again, Koenig and her colleague Emmanuel Dzotsi evoke a world of cascading injustices.

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Serial podcast, audio storytelling, Sarah Koenig, justice system, courts

#### **Recommended Citation**

Loviglio, J., (2019) “Serial, Season Three: From Feeling to Structure”, *RadioDoc Review* 4(1).



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February 2018

# Serial, Season Three: From Feeling to Structure

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## Recommended Citation

Loviglio, Jason, Serial, Season Three: From Feeling to Structure, *RadioDoc Review*, 4(1), 2018.

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# ***Serial*, Season Three: From Feeling to Structure**

**Listen:** *Serial* Season Three, Episodes 1-9, <https://serialpodcast.org>

By Jason Loviglio

*Serial*'s third season dropped in September 2018, with a fresh take on its old formula of "one story, told week by week". The new version, "one courthouse, told week by week," signalled a shift from the personal to the structural and a welcome turn to the socially engaged tradition of narrative journalism. Sarah Koenig returns as host but in place of her single-minded pursuit of the truth about one man (Adnan Syed and Bowe Bergdahl in Seasons One and Two respectively), she takes a broader look at an entire system of justice, that of Cleveland, Ohio. Importantly, she shares the reporting duty with a colleague, Emmanuel Dzotsi, a young Black reporter with an Ohio pedigree and a British accent. Dzotsi and Koenig, backed by the investigative resources and narrative finesse of *This American Life (TAL)*, present a devastating multidimensional portrait of the American justice system.

The first season (2014) so eclipsed any reasonable expectation for what artistic and popular success for a podcast might look like—I should say sound like—for subsequent seasons, that it was almost a relief that Season Two fell so clearly below the mark. That season featured a hair-raising account of US army private Bowe Bergdahl's escape from base camp, captivity, and torture and an exhaustive exploration of his culpability in the fate of his comrades who never stopped looking for him. Because host Koenig's access to Bergdahl himself was mediated by a filmmaker telling a similar story, the immediacy—and even the necessity—of the podcast's quest never really landed. It felt, like most of the mediated talk we listen to these days, like just another layer of gloss on yet another wrenching but ephemeral matter of public concern.

The genius of Season One, of course, was the utterly indispensable role of Koenig's obsession with ferreting out the truth of a murder case 15 years old. The story was like an investigational performative act—pulling everyone who listened into its centripetal force field, inspiring blogs, social media threads, spin-off podcasts, and ultimately a new trial for the man convicted of the 1999 murder of Hae Min Lee. Season One had impact.

*Serial*'s 2017 spin-off, *S-Town*, was a Southern Gothic masterpiece, which also featured another obsessed investigator as host. But the effort to stir up something newsworthy sometimes felt ghoulish and sorting out truth from fiction in the case of John B. McLemore was at times ethically fraught. The power asymmetries between reporter Brian Reed and McLemore and between and among McLemore and his demi-monde of companions, employees, and romantic interests were never fully

reckoned with and the story strayed from the path of investigative storytelling into something meaner and darker. The knotty tangle of public concerns, private affections, prurience, and naked self-interest implicated everyone, listeners included. When a distant relative defends her plan to cut John B's gold nipple rings off his corpse, it works as a fitting coda to the podcast, itself a brilliant desecration of McLemore. Cousin Reta was just late to the party.

*Serial's* third season debuted in the fall of 2018 with layers of expectation: genius, disappointment, and perhaps a sense that in the podcast multiverse of today, it was no longer required listening. In previous seasons, investigative journalism jockeyed with the deep interiority of TAL-style storytelling for preeminence, a formula that has been successfully adapted and re-purposed on any number of true crime podcasts in the US and beyond. *Serial's* early mastery of this formula could be utterly gripping and at times a bit precious. The only way into the stories was affectively, through Koenig's irresistible curiosity, now dogged, now coyly naïve, now frustrated.

If nothing else, *Serial* can reliably be expected to deliver the pleasure of peering deeply into other people's lives, with the patient rigour of long-form journalism and the warm tug of Koenig's emotional investment. Structure and charm. Koenig's introduction to Season Three makes it clear that this trusty formula will be in the service of a different kind of story. From the start, the new season is presented as a corrective to the universe-in-a-grain-of-sand approach. To understand the world of criminal justice one ought not to extrapolate from a single extraordinary case like the murder trial of Adnan Syed, Koenig asserts. One ought instead to tell the stories of ordinary criminal cases, 98% of which are pleaded out before trial— which is exactly what Season Three sets out to do. In a thematic departure for *Serial*, Koenig sets out to tell the story of structures, rather than merely structure a story.

The first character she introduces is a “cluster of concrete towers” in downtown Cleveland, called the Justice Center, a name we'll quickly come to understand as ironic, if not Orwellian. She describes the structure as “hideous but practical”. Roughly speaking, the building functions like most hierarchies—vertically. In this case, from the bowels up. “The main court tower is 26 storeys high, so the elevator really runs the place. If a person's arrested in Cleveland, they're coming into the Justice Center from the basement. Weary cops escort suspects from the underground parking garage. They get booked, go up a few floors to the jail.”

What's novel here is the assertion, from the start, that structures—social, political, and physical— are a necessary context in which to understand individual stories. This represents a departure from the US public radio structure of feeling, in which intimate voices and unique stories provide the warp and weft for the universal fabric of human experience. If the message of Seasons One and Two of *Serial*, and that of *This American Life* in at least its first 15 years, could be pared down to a single shibboleth it would be this: “See? We're all the Same.” Season Three weaves together stories from across a year of reporting in Cleveland to find a different

moral. Even as it does so, Koenig gamely reminds herself and her listeners that the impulse to find Common Ground, tempting though it may be, is a fool's errand.

The reflexivity in this shift of perspective is never so clear as when she constructs the Justice Center's elevator cars as the metaphor for the democratic promise of the US justice system.

Koenig: When I'm feeling optimistic, I appreciate that an elevator car in a government building is one of the few places left in our country where different kinds of people are forced into proximity. I like to think that we can all stand so close to one another, with our sensible heels, and Timberland boots, and American flag lapel pins, and fake eyelashes, and Axe cologne, and orthopedic inserts, and teardrop tattoos, and to-go coffees. And when the elevator doors open up, spilling us out onto our floor, the fact that no one is bloodied or even in tears, it's a small, pleasing reminder that we're all in this together.<sup>1</sup>

Koenig's sentiment collapses of its own weight. "Other times, the shoulder-to-shoulder closeness only magnifies the obvious—we're not the same, not at all." She demonstrates this with a self-deprecating bit of audio from an elevator ride in which she awkwardly attempts to bridge the racial divide by lamely joking that a young African American woman's portable speaker blaring hip-hop is "quite a soundtrack for the elevator". Keenly uncomfortable that the white people in the elevator had been exchanging looks about the music, she now bows her head in embarrassment and "to avoid the looks the black people are probably giving each other". She hasn't bridged the divide so much as called attention to it, by "saying the lamest thing I possibly can".

The vignette serves as an entrée into an important observation about the Justice Center, and by extension, the state of the justice system in the US: "This place is primarily black and white."

Koenig: The majority of the courthouse staff is black. Clerks are mostly black. Most of their managers are white. In the sheriff's department, most of the security guards are black. Most of the deputies are white. Most of the attorneys are white. Almost all the county judges are white, and their bailiffs are white. Most of the defendants and crime victims are black.<sup>1</sup>

It also serves as a way for Koenig to acknowledge that the awkward perch from which she tells this story is not merely an obstacle but a necessary condition. Rather than simply "reporting" the story, Koenig's presence in the Justice Center elevator

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<sup>1</sup> Sarah Koenig, USA; "A Bar Fight Walks into the Justice Center", Chicago Public Media, <https://serialpodcast.org/>. Retrieved 20 January 2019 from <https://serialpodcast.org/season-three/1/transcript>

becomes an uncomfortable element of the story. Rather than plumbing human tragedy for universal truths, she lets us know from the start that in the Cleveland Justice Center, estrangement is built in.

Koenig is introducing herself as a different kind of character than we've seen in previous stories on *Serial* or *TAL*. Her personality plays an important role in Season Three—but in a different way than it did in Season One. Gone is the assumption of utterly rational reporter as stand-in for the audience and with it the Holmesian conceit of revealing clues hidden in plain sight which can be decoded identically by anyone perceptive enough to notice them. Koenig is now a known quantity and she can poke fun at herself in ways that both build and ease tension. She's done that before, as in Season Two's memorable line: "that's me, calling the Taliban." This time, the critical point is that our social positions make certain kinds of investigations difficult, if not impossible.

The specificity of Koenig's perspective is a welcome challenge to an assumption that has made listening to certain long-form radio journalism so vexing over the last several decades. The assumption, that reporters and listeners are essentially the same kind of folks, is baked into the US public radio structure of feeling. The *subject* of the stories, however, are those other people, "strangers". This assumption, mostly implicit, has occasionally been made explicit, as when founding producer of *All Things Considered* Jack Mitchell said, "the listeners we attracted were pretty much like us."<sup>2</sup> Another NPR producer turned historian, Michael McCauley, put it more starkly: "NPR news is made by people like me... for people like me."<sup>3</sup> The notion of NPR as a refuge for the highly educated, socially conscious listener performs an impressively efficient bit of cultural work, flattering listeners and their doppelgangers at the network, while attracting the up-market corporate and foundation underwriting business eager to get their messages to this prized demographic.

In Koenig's portrait of a government building's elevator, the "we" that subsumes reporters, listeners, and subjects, is conjured through a list of fashion accessories—"sensible heels, and Timberland boots, and American flag lapel pins, and fake eyelashes, and Axe cologne, and orthopedic inserts, and teardrop tattoos, and to-go coffees," which archly evokes the irreducible and uncomfortable nature of social difference.

After mocking her own uninspired attempt to transcend this difference, Koenig feels free, in later episodes, to draw attention to her own difference with refreshing insouciance. "My first thought, [on seeing all the Irish names in the list of Cleveland Justice Center judges] was 'where are the Jews?'" Her ultimate point here is the lack of African American judges and the predominance of white ones and the reverse

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<sup>2</sup> Jack Mitchell, *Listener Supported: The Culture and History of Public Radio*. New York: Praeger, 2005, p.145.

<sup>3</sup> Michael McCauley: *NPR: The Trials and Triumphs of National Public Radio*. New York: Columbia University Press, 2005, p.114.

ratio for criminal defendants (and victims). The point lands differently, and more powerfully, because she frames questions of identity and power from a particular embodied point of view. Of course, for other listeners, Koenig may come across as too glib. The inadequacy of her voice in telling these stories is inevitable, a point Koenig embraces. Whether this is a sufficient inoculation is an open question, as likely to find a unanimous response as Koenig's elevator joke was.

Either way, listeners should not confuse insouciance for artlessness. Koenig and company have built each episode to function like steps along a path, to provide a spatial sense of the Justice Center and a conceptual sense of the social universe in which its denizens reside. Like Virgil's guided tour in Dante's *Inferno*, Koenig's companionship through these structures and spaces is a necessary component of the moral lessons to be found there. In describing the editing process for Season One, Koenig credited producer Julie Snyder as the better craftsman of the two.<sup>4</sup> In this season, editing, production, and journalism seem to have come together in an even tighter circle, a necessary progression, given the looping confusion of the building and the lives it brings together.

In addition to meticulous structuring, Koenig needs all her charm, all her storytelling prowess, and all the wry humour she can wring from moments like this, because the story of the Cleveland Justice Center is an American horror story, a damning indictment of the toxic stew of white supremacy, class divides, a punitive philosophy of corrections, and bureaucratic malfeasance that makes it nearly impossible for justice to be served. In a set of several stories about individual cases that occasionally overlap, spill over into different episodes, and circle back through coincidences and thematic unities only to fracture again, Koenig and Dzotsi evoke a world of cascading injustices. The season begins with a case in which "the system actually worked", featuring Anna, a young white woman who is thrown in jail for four days because she defended herself against sexual harassment, and moves on to more outlandish miscarriages of justice. Charges against Anna are ultimately dismissed—a victory for justice technically, but a bitter one for Anna, whose life is thrown into turmoil.

Koenig also needs Dzotsi and not only for the textural balance of his British accent, or for the credibility that a white podcast gains from a black collaborator. She needs him for the hundreds of hours of reporting he logs and the relationships he builds with Clevelanders such as Jesse Nickerson, a young man for whom the system also worked, with terrifying consequences. In 2016, Nickerson was arrested, cuffed and beaten by police in East Cleveland. Officer Denayne Dixon was tried, convicted, and jailed for the beating and for pressuring Nickerson to drop the charges. After that, police continually harassed Nickerson, arresting him, beating him, and warning him to "stay out of East Cleveland". And yes, *Serial* needs Dzotsi for the particularity of his blackness. When he and Nickerson, two African American men, find themselves

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<sup>4</sup> Sarah Koenig, "Binge-worthy Journalism," Keynote Address, Podcast Movement. August 2, 2015. Retrieved 28 January 2019 from <http://schedule.podcastmovement.com/band/sarah-koenig>



alone in a deserted parking lot with a police officer circling ominously around them in his cruiser, the intimidation, unaccountability, and sheer danger of their situation, and by extension, that of every Black person in Cleveland, is palpable in a way that it simply wouldn't have been if Koenig had been there, too. When Nickerson tells Dzoti at the end of episode six that he wishes he'd never testified against Dixon, the moral of the story is clear. It wasn't the illegal beating he suffered while handcuffed that ruined his life; it was bringing the policeman to justice.

Koenig and Dzotsi are able to tack back and forth in their storytelling and reporting to capture the two very different textures of state power that make living in Cleveland while poor and black so terrifying. The quick-as-a-flash savagery of police violence on the one hand and the grindingly slow walk of the court's schedule of dockets and bookings, and fines and suspended licences and probation hearings on the other. The latter's deliberative pace seems almost a method of impunity for the rashness of the former. Black Clevelanders are beaten in parks, kicked in the head in their own apartment buildings and knocked unconscious by the side of the road by the men sworn to protect them. Correction officers set juvenile offenders against one another in violent clashes.

Defendants charged with petty drug crimes are required to return to court again and again, which makes keeping a job nearly impossible; defendants who miss a court date lose their Ohio drivers' licences, with similar consequences; judges threaten to revoke parole for convicts who don't keep a job. One judge tells a young man that having another child out of wedlock would constitute a violation of his parole, a suggestion which is of course, a violation of the US Constitution. Victims of police brutality who have been charged with resisting arrest are counselled to delay their day in court until their cuts and bruises have healed, lest the district attorney wise up to a potential civil lawsuit and double down on the original charges.

If *S-Town* evoked a Southern Gothic novel in its charismatic anti-hero John B. McLemore and its proleptic decay, then *Serial*, Season Three, represents the podcast version of the muckraking literature of the Progressive Era. Like Upton Sinclair's *The Jungle*, this is a work of reporting to shock the conscience. In its sprawling ambition and unblinking gaze, it hearkens to the spirit of the social realist novels of Dickens, revealing a world of desperation in which all the choices are bad ones. Like Rachel Carson's *Silent Spring*, it resonates in places with prophetic gravitas.

Cases in point: when Dayvon Holmes tries to explain to an incredulous Koenig that, after sitting in jail for a year for a crime he didn't commit, he still would never snitch on the person who did: "It's against my religion." It's a peek into the chasm between Koenig and some of the people she shares that elevator with that extends beyond clothing, music, and tattoos. When the nearly bankrupt town of East Cleveland amiably settles massive civil claims against their police officers for brutality, simply because there's no money to pay out, *Serial* is warning us that mechanisms of accountability, and thus of government, are experiencing a massive systems failure.

Defence lawyers gloomily joke that “innocence is a misdemeanor,” that is, when there’s no evidence to go to trial, prosecutors coerce defendants to plead to lesser charges in exchange for immediate freedom. Charles, the father of a five-month-old girl who was shot to death, finds himself caught between grief, a desire for justice, the no-snitching code of the streets. When detectives, who haven’t returned his calls for months, reassure him that the two leading suspects will likely kill each other, it is both heartbreaking and inspiring to find that this final bit of cynicism still has the power to shock anyone, least of all Charles.

Koenig’s conclusion sounds like a lawyer’s closing argument: “let’s all accept that something’s gone wrong. Let’s make that our premise.” This may sound tame, but it marks a significant journey for the US public radio structure of feeling, which has preferred the complacency implied in the ethos of empathy as the goal of narrative, rather than as a starting point. US incarceration rates are “wildly out of whack and unprecedented in our history”, she continues. And “every joint in the skeleton of our criminal justice system is greased by racial discrimination,” a line that joins structural analysis to the embodied nature of oppression with impressive economy. Balancing dramatic tension with the codes of journalistic objectivity often leads non-fiction audio work to conclude with mealy-mouthed equivocation, or worse, with a Rashomon-like shrug at the infinite varieties of perspective. And yet, *Serial* concludes on a note less radical than liberal, less gloomy, than optimistic. There is perhaps nothing more evocative of the liberal optimism of the 20<sup>th</sup> century reform movements than the phrase “something’s gone wrong”, with the implied sense that it used to be—and can again be—made right.

It doesn’t seem likely that this season of *Serial* will gain the influence of *The Jungle*, *Hard Times*, or *Silent Spring*. But the hope inherent in the act of long-form journalism (on topics many Americans ignore) represents a kind of courage that should be applauded. So should real-world impact. In December 2018, the town of Euclid, Ohio, reduced its draconian penalties for possession of small amounts of marijuana, a decision “catalyzed” by *Serial*’s reporting on a man named Erimius Spencer.<sup>5</sup> Spencer was savagely beaten by Cleveland police; his possession of a ‘blunt’ (a marijuana cigarette), served as probable cause for a search that turned brutal, breaking the orbital bone in his eye and causing headaches, mood swings and other debilitating injuries. Finding the voices to tell these stories adequately is a Sisyphean task—endless, frustrating, but compulsory. At the end of Season Three, *Serial* is halfway up the hill.

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<sup>5</sup> <https://www.cleveland.com/euclid/2018/12/what-euclid-city-councils-decision-to-reduce-marijuana-penalties-means-for-residents.html>; *Serial* (2014-present). Season 3, Episode 3, ‘Misdemeanor, Meet Mr Lawsuit’, 2018. Sarah Koenig, USA; Chicago Public Media, <https://serialpodcast.org/>. Retrieved 20 January 2019 from <https://serialpodcast.org/season-three/3/transcript>

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