

**Book Review: Justin Brooks, *You Might Go to Prison, Even Though You're Innocent*. Oakland, CA: University of California Press. 2023. ISBN 978-0-520-38683-9 (Hardcover). 232 pages, \$25.99.**

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When an individual is accused of a crime they did not commit, then arrested, tried, convicted, and sentenced for the crime, it is a gross miscarriage of justice. While a false conviction may seem like a rare occurrence, it is an issue more common than most people probably realize. Numerous organizations have emerged with the mission of freeing innocent, falsely convicted individuals. Many of these individuals have spent a lot of years in prison as innocent people. *You Might Go to Prison Even Though You're Innocent* is an inside look at cases of wrongful convictions and the exonerations of innocent people by Justin Brooks, a California attorney who co-founded the California Innocence Project in 1999. The book begins with a brief Forward by Barry Scheck, one of the co-founders of the original Innocence Project, and provides an introduction which highlights the importance of the organization Brooks created, introducing the team members who were integral in the success of the organization. Each chapter within the book highlights a different failure of the criminal justice or legal system which led to false convictions by examining stories of real-life individuals who experienced the fate of being falsely convicted for crimes they did not commit. These stories also take readers through these individuals' difficult path to freedom thanks to the hard work of the California Innocence Project. The conclusion of the book is a summary of the legal shortcomings discussed within each chapter and provides recommendations from the author on

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how the obstacles highlighted within the chapters may be overcome. Having litigated many of the cases outlined in the book, the author is able to provide readers with personal, first-hand accounts of instances where the justice system has failed innocent people and the extensive work it took to reverse these unfortunate situations.

Brooks grips readers in the very first chapter by telling the story of Marilyn Mulero, a woman who was sentenced to death as the result of a plea bargain. Marilyn was convicted of the murder of two men and sentenced to death after she fired a court appointed public defender and hired a private lawyer with little experience who urged her to enter a plea of guilty with the hopes of avoiding the death penalty. In many cases where the death penalty is an option, prosecutors will remove this option in exchange for a guilty plea, leaving many defendants to believe this is their best option to preserve their life, even if they are innocent (Vick et al., 2021). Brooks worked on Marilyn's case for twenty-five years before she was released from prison for a crime she did not commit. This case sets the tone for the chapter's argument for effective legal counsel in criminal cases. In the case of Marilyn Mulero, she hired an ineffective lawyer, believing it was a better course of action than using a public defender, but instead she got death sentence for that decision.

The United States legal system has many moving parts, making it tough for a regular person to mount an effective defense of themselves, even if they are not guilty, which is where the right to counsel under the Sixth Amendment of the Constitution comes in to play (Rock, 2019). Hiring an experienced attorney is a necessity for individuals charged with serious, complex cases, such as capital murder. Brooks stresses how important it is to have a lawyer for any criminal case, but he stresses the lawyer must be competent enough to handle the case they have been hired for. Rock (2019) explores the issues capital murder defendants face when they have attorneys who are ineffective or inexperienced, citing how this leads to a greater likelihood they will receive a death sentence. Although cases can be appealed on the basis of having had an ineffective attorney, the process is difficult, stressing the importance of hiring a competent attorney from the outset.

Having the wrong attorney is just one of many reasons an innocent person can be sent to prison as an innocent person. Brooks identified issues within rural locations which are not accustomed to investigating violent crimes and oftentimes do not have the resources to properly investigate such crimes, leading to charges being brought against the wrong individuals. Also contributing to false convictions were issues relating to false testimony of witnesses, inaccurate scientific analysis,

and the nature of a close relationship one has with a victim. Brooks argues within the chapters that each of these factors have brought innocent people to face trial and conviction. What would seemingly be the evidence, testimony, or relationship which would prove their innocence, led to their false imprisonment by overzealous prosecutors or investigators and ill-informed juries.

One of the more compelling issues surrounding wrongful convictions is the inaccuracy of a witness or victim's identification of a suspect, discussed in chapter four. There are a substantial number of false conviction cases in which a bad suspect identification by a victim or witness was a contributing factor in the convictions (Beaudry et al., 2013). To make matters worse, many of the false conviction cases involving a bad witness identification involved more than one witness making an inaccurate identification (Walsh, 2013). Brooks points out that in over seventy-five percent of the first 180 exonerations in the United States as a result of DNA testing, the original conviction was caused by an identification which was not accurate. Brooks details several cases involving individuals wrongfully convicted due to inaccurate identifications and gives strong recommendations to better conduct identification procedures, such as using a double-blind lineup. Both photograph and in-person lineups can be highly suggestive when they are influenced by police commentary or confirmation, a photograph array with dissimilar individuals, and using a single-person identification, to name a few, making many witness identifications unreliable (Walsh, 2013). A double-blind lineup administration is a process which ensures that the investigator administering the lineup is not aware which individual in the lineup is the suspect of the case, therefore both the witness and investigator are unaware of the suspect's identity, eliminating influence on the part of the investigator (Beaudry et al., 2013). This helps increase the reliability of the identification made by the witness. With this, and other recommendations, Brooks makes a strong case to reform the procedures used for victim and witness identifications to increase reliability and hopefully help eliminate individuals being falsely accused of crimes based on the inaccuracy of a witness.

An individual confessing to a crime they did not commit may seem to be an unlikely occurrence, but as Brooks points out this occurs far too often. In twenty-eight percent of cases where an individual was exonerated based on DNA evidence since 1989, a false confession was part of the original conviction (Lackey, 2020). Police interrogations are designed to elicit a confession from a suspect, but this alone does not

explain why an innocent person would confess to a crime they didn't commit. Several factors concerning police interrogations can contribute to this such as sleep deprivation on the part of the suspect, the length of the interrogation, and the police presenting the suspect with fake evidence they claim proves the guilt of the suspect (Lackey, 2020). These and other high-pressure tactics used by law enforcement are intended to extract a confession from a suspect, however they also have the consequence of making an innocent person confess, either because the suspect wants the interrogation to end, or the suspect begins to believe what they are being told. The well-known Miranda warning is intended to protect a suspect by making them aware of their rights prior to interrogation, such as their right to remain silent and have an attorney present, but law enforcement officials have found ways to wither circumvent Miranda or essentially convince a suspect to waive their rights. As a result, few protections exist to safeguard a suspect who is being interrogated by law enforcement without the assistance of an attorney.

Improper interviews of children have also played a part in sending people to prison for crimes they did not commit. Brooks reviews several cases of people who were falsely convicted based on an allegation or statement from a child. The process of interviewing children is not easy, and very similar to a witness identification, interviewers of children should not use any questions or make any statements containing suggestive language which may influence the statements given by children. The author encourages the use of recognized interview protocols to minimize the possibility of a child being influenced in an interview. The National Institute of Child Health and Human Development protocol along with the Corner House Forensic Interview Protocol are two of the most highly recognized protocols used by officials when conducting forensic interviews of children (Klein et al., 2020). Models such as these help to serve as a guide for investigators and clinicians when children are interviewed. Faller (2020) discusses several recommendations provided by the Office of Juvenile Justice in 2015 to further guide the interview process of children, and using open-ended questions is a crucial part of these recommendations. While these interview protocols and recommendations may not be a sure-fire way to obtain complete truth from a child, they serve as a roadmap for interviewing children in a way to obtain the most accurate statements. Klein et al., (2020) conducted a study in the United States and found that forty-three states in the nation had some type of statute or other regulation addressing the process of interviewing children. Although this

may seem promising, there is a lot of work needed to properly, and effectively, filter the false statements from the true statements given by children and ensure equal application of best practices.

The final chapter of *You Might Go to Prison Even Though You're Innocent* reads more like a call to action than an analysis of wrongful conviction cases. Brooks emphasizes racism in the legal system as a driving force in both wrongful convictions and the rise of racial disparity in the United States prison population. Incarceration rates in the United States have skyrocketed over 550% from 1970 to 2018 (Altman & Coe, 2022). As of 2020, black Americans were incarcerated at a rate of 5.1 times more than white Americans (Beckett & Goldberg, 2022). Brooks states that people of color account for the majority of the incarcerated individuals in the United States, arguing that unconscious or implicit bias on the part of lawmakers and other officials account for much of this disparity. Brooks discusses the blatantly racist policies and laws which plagued the nation until the Civil Rights Movement, and then further explored the war on drugs and heightened sentencing guidelines in more modern years which resulted in the mass imprisonment of Americans, mostly impacting of people of color.

In another passionate examination from the final chapter, Brooks discusses the issues of the poor or indigent and how lack of wealth can adversely affect people in the legal system. For example, with minor crimes and traffic offenses, many courts will often issue a fine to a defendant, rather than impose any sort of jail time, and the courts will not always evaluate the defendant's ability to pay the fine which can result in fees being assessed and the possibility of jail time if they cannot pay the fine (O'Neil & Prescott, 2019). This can then begin a seemingly endless cycle for the defendant, facing jail time and mounting fines simply because they do not have the means to pay what the court has imposed on them. A lot of people facing criminal charges would be considered poor and as such do not have the means to hire a capable lawyer, which is essential when facing more serious charges. One of the reasons defendants in capital murder cases find themselves with an inexperienced attorney during their trial and throughout the appeals process is because they cannot afford a more experienced and competent lawyer who is capable of navigating the legal system appropriately (Rock, 2019). Brooks brings awareness in this chapter to the plight of the poor when facing the legal system of the United States and the high cost of a defense and subsequent appeals, demonstrating the importance of innocence organizations and their need for financial assistance.

Throughout the chapters of the book, Brooks explores the challenges facing truth and justice in the United States legal system, focusing little though on the impacts to correctional systems, the country's economy, and some of the other victims involved in these cases of false convictions. Every time someone is convicted and sent to prison for a crime they did not commit, there are financial impacts on correctional systems and the economy, in addition to the lost earnings of the individual falsely incarcerated and the financial impacts on their loved ones. Many states offer compensation to those who have been wrongfully imprisoned, averaging around \$70,000 per year they were in prison (Cohen, 2021). This is just one of the financial consequences to taxpayers as a result of a false conviction. Correctional institutions bear the heavy cost of incarcerating and caring for a person who is imprisoned for a crime they did not commit. Cohen (2021) estimated a correction's facility will pay about \$350,000 for a person incarcerated for just over ten years. These figures are only an estimate and do not take into account additional compensation from lawsuits, legal fees, and the overall cost of the appeals process. Much of this money comes from public funds which could be spent on other, much needed programs and services, and not on an individual who should not have been imprisoned in the first place. This alone should be enough to encourage policymakers and corrections officials to be more open to assisting inmates in potential cases of innocence and encouraging the reforms mentioned in this book.

Convicting and incarcerating the wrong person for a crime also impacts more than just the incarcerated individual and their family. When the wrong person goes to prison an actual violator is still at large with the potential to commit more crimes and create more victims, and the cost of these additional crimes would be extremely difficult, if not impossible, to measure but would likely be significant (Cohen, 2021). In one study, 109 individuals were identified as the true offender in cases where someone else was wrongfully convicted, and of those individuals, 102 of them committed at least one additional crime thereafter (Norris et al., 2020). This rate of offending shows how costly a false conviction can be, not only from a financial perspective, but in the number of victims who may not have been victimized had the correct offender been identified and incarcerated. Also, justice has not been served for the victim and family of the original crime, leaving them to have to potentially relive the experience and lose closure when it is shown the wrong person was convicted.

*You Might Go to Prison Even Though You're Innocent* is a well-crafted book which can provide an eye-opening experience for any

reader. Even though the numerous stories of wrongful convictions and exonerations are entirely real, the book partially reads like a gripping work of crime fiction. It is evident throughout the chapters that the author is passionate about his work and ensuring equal justice for all individuals. The book can be of value to anyone working in the Criminal Justice field or the judicial system by shedding light on the practices which lead to the convictions of innocent people. Every case of a wrongful conviction is a blister on the criminal justice system. To restore faith in the system, these wrongs need to be made right and the reforms encouraged in this book are a good starting point to ensuring fewer individuals face the unfortunate circumstance of going to prison as an innocent person.

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