

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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Within the book, *You Might Go to Prison, Even Though You're Innocent*, Justin Brooks lays out the common factors that come into play that would result in a false conviction and incarceration of an innocent person. Brooks founded the California Innocence Project (CIP) in 1999 and at the time of this review, he has assisted forty people regain their freedom from false incarceration. This book calls to attention the different factors within multiple cases that could send anyone down the road of being incorrectly charged and convicted of crimes. The author is able to take real-world cases that he took on to show that due to false information, location of the incident, outdated medical assumptions, shotty police investigations and even just being in the wrong place at the wrong time can get a person caught up within the legal system. He highlights the nuances within each case that lead to the wrongful convictions and the egos that came into play when investigating as well as attempting to free the innocent.

The average citizen could not imagine taking a plea deal for a murder they did not commit, let alone a plea for the death penalty. Inadequate counsel for the defendant lead to Marilyn Mulero taking this deal and solidifying her death sentence. Two major issues came into play with Mulero's trial and sentence; her attorney did not investigate the crime scene and problematic eyewitness testimony. Eyewitness testimony can be altered in ways where the witness remembers certain things that did

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not take place. A recent study showed that 70 percent of over three hundred wrongful convictions from eyewitness testimony were overturned due to DNA evidence that was later located (Bjørndal et al., 2021). The witness in Mulero's case stated that she saw the "tall girl" hand the gun to the "short girl" (Mulero) who then shot and killed a gang member (Brooks, 2023). When the author traveled to the location where the murder occurred, he stood in the place where the witness stated they were standing when the incident took place. Though the murder took place at night with minimal lighting, he was barely able to make out what was happening over four hundred feet away in broad daylight. This highlights that the incompetence of her hired attorney and the weight that we give to eyewitness testimony can lead someone to be convicted of a crime they did not commit. The prosecutor in her case has a portion of the blame on them as well. Instead of seeking true justice, they dug in and over-committed to the plea which is a problem in some of the prosecutor's offices. Prosecutors who do not want to evaluate their cases and stick with convictions due to their own egos while offering plea deals just to move on to the next case is more problematic than it appears (Bishop & Osler, 2016). If they were to concede and admit they did not investigate the case as well, this could hurt their reputation and the approval of their colleagues.

Brooks then dives into the topics of faulty eyewitness testimony, cognitive bias committed by the police, and lack of training and exposure to investigators of crime scenes. Eyewitness testimony within a trial is given unfair weight by the jury who are not educated with the problems that exist and, in turn, have issues distinguishing between true and false eyewitness accounts (Bjørndal et al., 2021). The author references the case of Guy Miles who had numerous witnesses putting him in a different city during the time of a robbery. The inability of the jury to differentiate between the correct testimony caused Miles to spend 18 years in prison for a crime he did not commit. Cognitive bias can be seen within eyewitness testimony and police work. Depending on their life experiences, they may view people of other races as more violent and prone to crime. This leads to police locating a person who fits a description and stopping there, not actually following every lead to ensure the right person is apprehended. In a 2012 study, although only 13 percent of the population, African Americans were shown to be 50 percent of the eight hundred and seventy-three exonerations while White Americans made up 38 percent (Batts et al., 2015). The ability for this disparity stems from the biases that minority races face each day. Brooks also points out the science behind the issues of cross-racial identification.

Whichever race is dominant within an infant and toddler's life will solidify how they are able to differentiate between nuances of the appearance of other races. This has been proven to be even more troublesome when it comes to a witness identifying a person who is not of the same race and the accuracy of this testimony declines severely (Kleider-Offutt, H. et al., 2017). The location of the offense will also enable certain issues that could lead to a wrongful conviction. Police officers who patrol in urban areas are exposed to crime at a much higher rate than one who works in the county. With this exposure comes on-the-job experience in handling violent crime scenes and there are more training opportunities for these officers to learn how to properly investigate since they are seeing it at a much higher rate. City cops are also shown to have more education at a level of 24 percent greater than their rural counterparts with regards to advanced level education.

It is difficult to fathom that a person would admit to a crime that they did not commit, but this is often the case when investigators use hours-long interrogations and false evidence to fit the narrative they have already built in their heads. These types of interrogations led innocent people to agree to what they are being told just to get the interrogation to end or they have been there for hours and are becoming confused about what happened. The practice of these interrogation techniques can be construed as official misconduct which has been shown to increase the probability of a false confession by 82 percent within exonerees (Vick, K. et al., 2021). This is problematic due to most juries allowing for confessions to carry more weight than the evidence that was presented similar to the faulty eyewitness testimony. It is stressed multiple times within the book that the education of jurors is pivotal when it comes to how to interpret evidence that is given by the prosecutors, and this is true when listening to expert testimony which can be considered junk science. Multiple cases are written regarding persons wrongfully convicted of the death of a baby due to the injuries sustained meeting the "triad of symptoms." Previous medical science believed that subdural hematomas, brain swelling, and retinal hemorrhaging were signs of abuse. These were thought not to be able to occur from shortfalls, but from assaults afflicted onto the child. It was not until 2018 did the definition and medical thinking lead to the exoneration of twenty-two defendants who were wrongfully convicted (Johnson, M. et al, 2020). The charge of killing a baby can weigh heavily on a person who is wrongfully convicted. In the case of Ken Marsh, when presented with the opportunity to plea to a lesser charge of manslaughter and be released, he refused because he knew he did not kill the child. He would gamble his

life on the court's review to not have that heinous crime associated with his name. While this was a risky move for Marsh, it would pay off to stay true to his morals and he was completely exonerated for the crime.

Medical science is not the only discipline that can lead to wrongful convictions when too much emphasis is placed on a flawed postulate. The author names these "junk sciences" which include fire science, forensic odontology, microscopic hair analysis, and ballistic matching techniques that are substantially, if not completely, inferior to DNA and fingerprints. This is not to say that they cannot be used to test hypotheses or confirm findings, but when placed very high in the scope of all evidence that is presented, they have proven to lead to many wrongful convictions. It was shown in a 2009 study of exonerations by DNA matching, 60 percent of the cases had the presence of inaccurate forensic evidence presented to the jury (Thomas, S., 2015). The weight that the jury puts on these sciences can be explained by the "CSI Effect" where jurors expect to see scientific evidence in 46 percent of cases and fingerprint evidence in 36 percent. DNA evidence is only present in 5 to 10 percent of cases (Thomas, S., 2015). The problem with these types of evidence like hair analysis and ballistic matching is that they are not an exact science. Many different variables can skew the evidence within the lab and can variate between whoever is testing the samples. To ensure a proper test is conducted, the lab personnel must not know anything about the case and come to their own conclusion without outside influence. Once a theory of guilt is built, there are many stages within the investigation that can cause even the most professional and experienced person to fall into the phenomenon of belief perseverance (Batts, A. et al, 2015). When you bring the egos of the investigators into the mix, the egos have the ability to sway them to the person who they feel in their gut is the one who committed the act. This is shown in the book where a lab ran a test multiple times but thinks something is wrong because it is not identifying the suspect as a match. They are using the testing the wrong way and should be looking at what it is telling them and not making it fit a specific person.

The ability of an investigator to differentiate truth from lies is also a main factor when it comes to wrongful incarceration which is most prevalent in false rape accusations. Commonly tunnel vision takes over an investigation when automatic trust is given to the complainant who can give specific and explicit details of the incident. The case of Brian Banks is highlighted in this book and shows how the lie of an embarrassed teenager could derail a promising athlete's dreams and land him in prison for a rape he did not commit. Banks would agree to a plea

deal to lessen his sentence from forty-one years to life to 6 years in prison due to a mediocre investigation and lies from the complainant. It has been shown that 16.2 percent of defendants are indicted due to false rape allegations by the “victim” or false eyewitness testimony (Hail-Jares, K. et al, 2017). Police and investigators have to walk a fine line when confronted about allegations of rape because if they are dismissive to the victim, they can be viewed as victim shaming but also need to ensure they collect all the evidence available to make certain they find the correct offender.

Brooks does an outstanding job of showing the reader a real-life case that proves there are faults within the criminal justice system that anyone can fall into. He brings his real-world experience to break down each of the numerous ways any person could be wrongfully convicted of a crime due to medical misinformation, the location of the crime, biases of the investigators, and simple misidentification. Brooks proposed that the way to make sure this does not happen to you is to have the ability to obtain resources to conduct a separate investigation, similar to the O.J. Simpson case. This is the best defense even though normal citizens who are barely making ends meet will not be able to afford this luxury. Therefore, the CIP was developed and has proved to be a great asset for those facing prison time for wrongful convictions. This is not only a movement to help those that are innocent, but it has also started to shape the way District Attorney’s offices are structured and have been developing Conviction Review Units. Brooks, from start to finish, points out how easy it is to be wrongfully convicted of crimes if the wrong factors come into play and what the legal system can do going forward to limit these false convictions. He is the voice for the innocent and has worked tirelessly with nowhere near the resources as the prosecutors but with drive and perseverance is able to free the innocent. This book should be a mandatory read for law students, police cadets in the academy, and criminal justice students, as it opens the eyes of the reader to “minor” mistakes that could cost an innocent person years of their life.

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