

## Psychological Research Has Much to Say: So Why Don't the Courts, Police Departments, and Legislatures Listen?

A review of



### **Conviction of the Innocent: Lessons From Psychological Research**

by Brian L. Cutler (Ed.)

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Reviewed by

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*Conviction of the Innocent: Lessons From Psychological Research* is an edited collection of 15 chapters (an introduction and conclusion are also offered by the editor) that uses psychological research to provide reasons for the imperfect nature of the justice system that has resulted in innocent people in prison, some even on death row. The book is organized around those who have an impact on how the judicial system finds innocent people guilty of crimes they did not commit, including the suspects, the investigators, the eyewitnesses, and the trial witnesses. The book also explores pervasive issues such as racism and tunnel vision. A final section deals with the exonerated, who frequently go uncompensated for the years lost and the lives they were not able to live.

To future readers of this book, I would suggest reading the final chapter first so that knowing the stakes of labeling someone a killer who has killed no one becomes the backdrop for reading the remainder of the book. Once freed, these people are followed by the stigma of having been incarcerated, just like those who have served their time for crimes they had committed—jobs and housing are hard to come by. Also it is important to note that the wrongfully convicted never get a chance for early release because parole boards usually require confession of guilt, something an innocent person is not willing to state (see, e.g., Innocence Project, 2011).

There are three stated goals for this book. The first is to advance the psychological literature on reasons why innocent people are convicted; the author accomplishes this by reviewing the literature in the various fields of study that currently exist. The second is to integrate the research, which currently is divided into distinct categories. Conclusions drawn from such isolated research do not take into consideration that other aspects may better explain the results. A more comprehensive and collaborative research process may lead to evidence-based improvements for the criminal judicial system.

The last goal is to encourage research about law and psychology in general, as well as to examine the justice system as a process, a process that includes the conviction of innocent people. The balance of this review will look at a few examples related to how well this volume has accomplished its goals as well as describe who might benefit from reading this book.

## **The Conviction of the Innocent**

*Conviction of the Innocent* accomplishes its goals in all its chapters, beginning in the first chapter, “At-Risk Populations Under Investigation and at Trial,” dealing with suspects. There are three categories of people who are vulnerable on the basis of being susceptible to suggestion, wanting to end the current discomfort of being questioned by authorities, and not having the capability of understanding what the long-term consequences of their actions might be. The vulnerabilities and dispositional factors that impede receiving due process, which would entail a knowing and intelligent waiver of Miranda rights and the competence to adequately participate in trial strategy with an attorney, are the immaturity of youth and the cognitive impairments of mental illness and intellectual disabilities.

Young people and those with mental illness or intellectual disabilities are overrepresented among proven cases of wrongful conviction (Innocence Project, 2007). These vulnerabilities are discussed as possible additional factors that contribute to the other topics under consideration in subsequent chapters, such as detecting deception and false confession. To the authors’ credit, they attempt to tie their research findings with those reported in the other chapters. This effort illustrates how various academic interests can

come together and achieve a better perspective on the whole judicial process, from the identification of an initial suspect through the delivery of a verdict, as well as on the issue of conviction of the innocent.

The chapters about investigators, eyewitnesses, and trial witnesses are fairly self-explanatory. The one exception is Chapter 12, (“Psychological Perspectives on Problems With Forensic Science Evidence”), which discusses the problems with forensic science evidence. Authors Itiel Dror and Rebecca Bucht indicate that even the evidence of blood, fingerprints, and spatter (among other forms of evidence) is susceptible to pressured interpretations that support the prosecutor’s theory of the case.

The issues include how the evidence is selected at the crime scene, how the evidence is evaluated and perceived, personal biases, and how the evidence is presented at trial. The situation is further compromised by the “CSI factor,” meaning that television watchers believe there is only one way to collect, process, and testify about the evidence and how it relates to the person on trial. This revelation makes sense if one compares collection and interpretation of forensic evidence to giving an assessment battery to a client and then interpreting the results. The instruments used, the process of using each instrument with a client, and the interpretation of results can be affected by bias just as readily as can the tangible collection and interpretation of evidence from a crime scene.

The discussion about forensic evidence is synthesized by Keith Findley in Chapter 14, “Tunnel Vision.” If the focus of an investigation is on only one person, contrary evidence is often viewed as weak and not reliable, whereas all other evidence is interpreted in a manner that best implicates the identified suspect and/or defendant. These phenomena can be explained by the psychological theories of confirmation bias and belief preservation. These human factors also underlie the fact that time constraints and financial limitations reward a tunnel vision approach, as it results in faster arrests and increased conviction rates.

## **Who Would Benefit From Reading This Book?**

*Conviction of the Innocent* has many audiences. Judges and attorneys who hear, prosecute, or defend criminal cases will benefit from reading this book or using it as a reference to ensure that all defendants are given their due process. It would also be useful as a beginning guide to revise guidelines regarding investigation, identification, and witness (including informants, eyewitnesses, and alibi witnesses) credibility procedures used by police departments, prosecutors, and defense attorneys.

Psychological researchers could use this book as a starting point to integrate current knowledge and develop new research methods that could better explore the crossovers among the distinct research topics and the areas needing more evidence in order to formulate recommendations for improving the legal system and decreasing the conviction rate of

innocent people. Finally, graduate students will find this book valuable as an introduction to the current psychological research relevant to the successful operation of the criminal justice system. Likewise, students wanting to write their dissertation or doctoral project on topics discussed in this book will learn what methods have worked in the past and what improvements can be made.

All in all, *Conviction of the Innocent* is densely packed with information about how criminal proceedings can go wrong and what changes need to occur to minimize these injustices. This is a well-written book that needs a wide readership so that procedural misconduct can be avoided. Many of the chapters indicate that sometimes just making people aware of their potential biases can improve their ability to reach a more balanced decision. Hopefully police, forensic experts, judges, prosecutors, defense attorneys, jurors, expert witnesses, eyewitnesses, and alibi witnesses can learn to look past their individual and collective biases so that each defendant is afforded due process and a fair trial.

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## References

Innocence Project. (2007). *200 exonerated: Too many wrongfully convicted*. New York, NY: Benjamin N. Cardozo School of Law, Yeshiva University.

Innocence Project. (2011, October 4). *Texas man freed after serving nearly 25 years for murdering his wife that new DNA evidence shows he didn't commit*. Retrieved from

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[Texas\\_Man\\_Freed\\_After\\_Serving\\_Nearly\\_25\\_Years\\_for\\_Murdering\\_His\\_Wife\\_That\\_New\\_DNA\\_Evidence\\_Shows\\_He\\_Didn\\_t\\_Commit](http://www.innocenceproject.org/Content/Texas_Man_Freed_After_Serving_Nearly_25_Years_for_Murdering_His_Wife_That_New_DNA_Evidence_Shows_He_Didn_t_Commit)

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