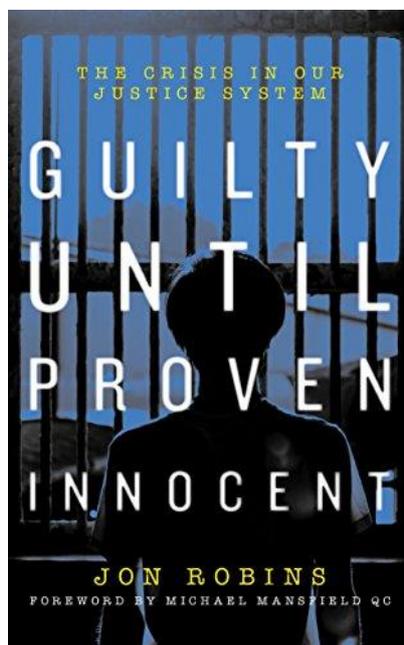


## *Book Review*

**Jon Robins, “Guilty Until Proven Innocent: The Crisis in Our Justice System”.  
Biteback Publishing, 2018. ISBN 978-1-78590-369-4**

[www.amazon.co.uk/Guilty-Until-Proven-Innocent-Justice-ebook/dp/B0794RBTHZ](http://www.amazon.co.uk/Guilty-Until-Proven-Innocent-Justice-ebook/dp/B0794RBTHZ)

**Review by Norman Fenton<sup>1</sup>, 28 June 2018**



There have been numerous previous books describing cases of alleged miscarriage of justice in the UK, but I believe this superb book by Jon Robins is the most important because of the breadth of cases considered and the way it highlights continuing systematic flaws in the British criminal justice system which, unfortunately, mean the problem is not going to go away any time soon.

From the 1980s until the early 2000s cases such as the Birmingham Six, the Guildford Four and Colin Stagg received enormous media attention. So much so that, along with proposed reforms intended to ensure such injustices could not happen again, most of the public assume that the problem has largely gone away. This book shows that, while the media no longer takes such a great interest in alleged miscarriage of justice stories, if anything the problem has got worse. The book references many cases but focuses on 11 of which only the recent case of Liam Allan (whose 2018 trial for rape collapsed after the prosecution revealed that the police had failed to disclose mobile phone evidence proving his innocence) have received any really significant media attention.

In its description of the cases the book reads like a compelling detective story, with different related cases interlaced. As new evidence is revealed the narratives change in surprising ways even for readers who may have some familiarity with the cases. It is a gripping and easy read.

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<sup>1</sup> Professor of Risk and Information Management, Queen Mary University of London and Director of Agena Ltd. ([n.fenton@qmul.ac.uk](mailto:n.fenton@qmul.ac.uk)). [www.eecs.qmul.ac.uk/~norman/](http://www.eecs.qmul.ac.uk/~norman/)

I do declare an interest as I was one of the people interviewed by Jon Robins in relation to the Ben Geen case described in Chapter 9. Geen was convicted for the murder of 2 patients and attempted murder or several others. I had provided a report to the Criminal Cases Review Commission (CCRC)<sup>2</sup> concerning the extent to which the sequence of 'unusual respiratory events' at the Horton General Hospital (where Ben Geen worked as a nurse) was genuinely statistically unusual (spoiler: it was not really that unusual, but may wrongly have been assumed to be a strong indication of foul play).

While some of the cases described in the book are murder cases (Eddie Gilfoyle, Omar Benguit, Ben Geen, Sam Hallam, Alex Henry) others like Danny Major (a Policeman convicted of assault) and Tony Stock (convicted of an armed robbery) are what would normally be classified as run-of-the mill crimes that would barely raise a mention in the local press. The importance of even these 'mundane' cases is the extent of police and lawyer incompetence and corruption, failure to disclose evidence, interminable legal processes and appeals, and the damaging long term impact on family members as well as those wrongly accused. In all of the cases described in detail, Robins provides new information in the form of interviews with those directly affected (including defendants, family members, lawyers and expert witnesses). There are no 'happy endings' as such and most of those who may well have been wrongly accused or convicted either remain in prison or had their lives destroyed.

Three of the chapters (5-7) deal with recent flawed cases of both rape and historic child/sex abuse. This includes the cases of high-profile figures Harvey Proctor and Paul Gambaccini - both wrongly accused of historical child abuse, Geoff Long wrongly convicted of historical sexual abuse, and those of Elgan Varney and Liam Allan who were wrongly accused of rape. What is disturbing about all of these cases is that wrongful prosecutions are the inevitable result of the recent political will to avoid perceived past mistakes whereby such crimes were not properly investigated. In the new investigation 'environment' police are instructed to always believe the accuser, and this leads to systematic failures whereby evidence that can prove the accusations are false are either not followed up or ignored. Other systematic problems described in the book are the Law of Joint Enterprise (whereby a person present at the scene of a murder can be convicted of murder if it can be proved they foresaw the possibility that death may occur), issues relating to disclosure of evidence, limitations of the Court of Appeal, and chronic weaknesses of the CCRC.

Some of the cases described, such as that of Sam Hallam wrongly convicted of murder, did result in successful appeals, but even then there is no happy ending. It may be a surprise to many, but when a conviction is quashed the Court almost never offers an unequivocal declaration of innocence (Robins refers to a 2016 study by Carolyn Hoyle in which there was only such judgment out of 133 cases) and typically – as in the case of Sam Hallam – no compensation is granted.

While each of the 11 chapters has a focus on a specific case, the author provides a wealth of important and interesting information on related cases and people. Of special interest to me was the material about Waney Squier in Chapter 8. Waney is a world-renowned neuropathologist who previously gave expert evidence for the prosecution in multiple cases of 'shaken baby syndrome'. However, after 2000, she became convinced that much of the medical/scientific evidence to support the syndrome was flawed and, hence, that most of those convicted were victims of a miscarriage of justice. She subsequently became one of the few medical experts to challenge the mainstream view and acted as an expert witness for defendants. The Family court judges hated this and the police reported her to the GMC

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<sup>2</sup> Fenton, N. E. (2018). On the Role of Statistics in Miscarriages of Justice. In 3rd Meeting of the All-Party Parliamentary Group on Miscarriages of Justice. House of Commons, London 25 June 2018. <https://doi.org/10.13140/RG.2.2.22791.70567>

who felt she had acted contrary to their guidelines for expert witnesses. This led to her facing a GMC tribunal ending in her being struck off in March 2016. Although this ban was overturned on appeal 8 months later<sup>3</sup> Waney is still banned from giving evidence in court for 3 years.

Waney was one of the speakers at the Meeting<sup>4</sup> of the All-Party Parliamentary Group on Miscarriages of Justice, at the House of Commons, on 25 June 2018 which was based around the launch of Jon Robins' book. Having spoken with Waney at the event I share her deep concerns about the statistical basis and validation for the guidelines and will be looking at these with colleagues in the next few months.



Waney Squier, Liam Allan and Eddie Gilfoyle speaking at the Meeting on 25/6/18

Listening to Eddie Gilfoyle and Liam Allan – as well as families of others described in the book - tell their anguished stories, brings home the personal tragedies of wrongful arrest or imprisonment. The systematic problems in the criminal justice system that the book describes mean that the particular cases which are its focus are only the tip of the iceberg. I am personally involved as an expert consultant on ongoing cases which are as shocking as those described but which are unknown to the public.

Also, in addition the systematic problems described in the book, other recently introduced laws (or new interpretations of existing laws) are ensuring a new class of people are – in my view - being wrongly imprisoned. Especially concerning are laws pertaining to limits of free speech and 'hate crimes'. These have seen people convicted for: tweets (e.g. Rhodri Philipps was imprisoned for a tweeted 'threat' against Gina Miller, while Tim Burton was imprisoned for tweets and emails critical of Fiyaz Mughal which were deemed Islamophobic); YouTube videos (e.g. Count Dankula was convicted of an 'antisemitic hate crime' for what was a joke in poor taste); offensive words in public (e.g. Jayda Fransen and Paul Golding were convicted of 'hate crime' for words deemed offensive to Muslims, while Paul Weston was arrested for simply reading out a speech by Winston Churchill also deemed offensive to Muslims). Possibly most concerning of all is the case of Tommy Robinson who was recently imprisoned for 13 months for contempt of court simply for reading out in public what was already written on the BBC web site about an ongoing rape trial, and the arrest and expulsion from the UK of foreign nationals Brittney Pettibone, Martin Sellner and Lauren Southern simply for attempting to meet Robinson (before his recent arrest).

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<sup>3</sup> <https://www.theguardian.com/society/2016/nov/04/doctor-waney-squier-wins-appeal-shaken-baby-syndrome-trials-evidence>

<sup>4</sup> Other speakers were: Barry Sheerman MP who chairs the APPG, Michael Mansfield QC and lawyer Matt Foot who have been involved in many of the cases, Gloria Morrison who spoke about the problems of Joint Enterprise, Liam Allen and Eddie Gilfoyle who spoke about their own experiences, and myself.

That those arrested or imprisoned in such cases are considered to have the 'wrong' political views by the establishment means they will receive little media sympathy. But, as in the cases described by Jon Robins, we are talking about families affected and massive waste of public resources (e.g. the supposedly cash starved Metropolitan Police has recently set up a new unit of 900 full-time officers to investigate 'on line hate'<sup>5</sup>). There will be future books which will cover these new cases that will look back in shame at what will be regarded as a period in which the UK held political prisoners. In the mean time I strongly recommend Jon Robins' book to anybody with an interest in justice.

*Brittney Pettibone (USA) and Lauren Southern (Canada) were both arrested and permanently banned from the UK in 2018 because of their political views.*



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<sup>5</sup> <https://www.london.gov.uk/press-releases/mayoral/mayor-launches-unit-to-tackle-online-hate-crime>