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Unfair: The New Science Of Criminal Injustice



The New Science of Criminal Injustice

ADAM BENFORADO



Synopsis

Weaving together historical examples, scientific studies, and compelling court cases - from the border collie put on trial in Kentucky to the five teenagers who falsely confessed in the Central Park Jogger case - Benforado shows how our judicial processes fail to uphold our values and protect society's weakest members. With clarity and passion, he lays out the scope of the problem and proposes a wealth of reforms that could prevent injustice and help us achieve true fairness and equality before the law.

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Customer Reviews

This is an interesting book, and if I had a problem with it it was mainly because I came to it already agreeing with most of its conclusions - so it didn't change my mind or really make me think of anything in a new way. I pretty much already knew that we, as people, make inaccurate snap judgments and don't look at the whole situation. Even the prosecutors who withheld evidence aren't even 'evil' people exactly - it's not like they wake up deciding to frame an innocent person, but they're so convinced they're doing the right thing that they can't let go of their certainty and look at a case objectively. I get it - I'm sure it's difficult to be 99.9 percent convinced of someone's guilt, and not allowing yourself to trust a piece of exculpatory evidence. Or - if a medical professional sees a guy who appears drunk, and letting that first impression guide the treatment instead of objectively examining all the potential problems. I agree with other reviewers who note this is a hard book to "like" and is certainly not one I had any interest in reading straight through. I had to put it aside as I

was getting overwhelmed with accounts of rank unfairness as the title promised. But it's an important and valuable book to make us think about how "fair" we really are, in how we interact with those around us. One of the book's bad reviews is a screed that, in an amusing way, proves the book's points. It mentions a complaint about "book smart" medics vs. "street smart" medics, and applies a broad brush that applies to all of them. The reviewer has already decided to be angry at any medic who don't meet the reviewer's "working man" standards. It's funny - because the book is dealing with exactly that kind of predetermined stereotype that infects our judicial system. Ultimately, my problem with books like this is - "okay, I'm angry, but now what?" And there isn't really much to be done - Benforado offers a few solutions, but the reality is that only people can make themselves step back and ask themselves if they're being truly fair to the situation. If you're not willing to do that - like in the case of the reviewer above - then there's nothing to be done. I sometimes end up more frustrated after reading books like this, and I was pretty frustrated before.

Unfair: The New Science of Criminal Injustice by Adam Benforado "Unfair" is a fantastic, well-researched look at what is at the heart of our unfair criminal system. Law professor Adam Benforado has provided the public with an eye-opening gem grounded on the best current science, historical court cases and insightful research. He explores the nature of the criminal mind, eyewitness memory, jury deliberations, police procedures, and intuitions about punishment. This enlightening 402-page book includes twelve chapters broken out into the following four parts: I. Investigation, II. Adjudication, III. Punishment, and IV. Reform. **Positives:** 1. A well written, well-researched book that is grounded on sound logic and good science. 2. A fascinating topic, the new science of our unfair criminal justice system. 3. Mastery of a complex topic and innate ability to educate and enlighten at an accessible level. 4. I love the tone and pace of this book. Benforado is very careful not to oversell the benefits of science while at the same time clearly showing what good research has uncovered and the shortcomings of our system. Kudos! 5. A clearly defined theme, "Injustice is built into our legal structures and influences outcomes every minute of every day. And its origins lie not inside the dark heart of a bigoted police officer or a scheming D.A. but within the mind of each and every one of us." • Intriguing. 6. Provides many interesting cases and immerses sound logic and science into each one. David Rosenbaum's story illustrates an unacceptable chain of mistakes. "The physical disgust they felt may have generated an explanation for David's condition that involved lack of discipline and poor character." "drunkenness" rather than another potential cause: a stroke, seizure, diabetes, head injury, or drug interaction. And once the ETOH label was attached, David was in

trouble.⁷ Confirmation bias and its impact to our criminal system. ⁸ Once David was labeled a drunk, the responders and medical professionals appeared to focus on finding evidence that supported that description.⁹ A fascinating look at false confessions and what leads to them. ¹⁰ False confessions and incriminating statements are the leading contributors to wrongful homicide convictions, present in over 60 percent of the known DNA murder-exoneration cases in the United States. More broadly, they appear to have been a factor in about 25 percent of all post-conviction exonerations.¹¹ Great use of neuroscience. ¹² Some scientists have claimed that roughly half of the variability in antisocial traits across the population comes down to the genes that people are born with. All things being equal, if you have a Y chromosome, you are several times more likely to engage in violent criminal behavior. And psychopaths and pedophiles are both disproportionately men. But it can be hard to separate out the impact of genes from social factors: after all, men and women are subjected to very different arrays of experiences and expectations.¹³ A look at how lawyers break the rules and what can be done about it.

We should worry, then, about the enormous control that prosecutors have over the state's evidence and witnesses: they are the ones who decide if and when the defendant's team will receive the ballistics report or the DNA report or a copy of the witness statement or the initial police write-up.¹⁴ Research suggests that the more prosecutors are focused on winning, rather than on achieving justice, the more likely they will be to act dishonestly.¹⁵ The role of juries. ¹⁶ Of course, the faith we have in our own perceptions and our cynical discrediting of those with whom we disagree can create trouble even when a jury does get to consider the case. As jurors, we are often oblivious to how our own preexisting commitments, beliefs, and biases shape our impressions, but we quickly and easily spot them influencing others.¹⁷ Surprising findings and tidbits used throughout the book.

Recent research suggests that a person's weight can influence juror assessments, with male jurors more likely to reach a guilty verdict when the accused is an overweight woman than when she is thin.¹⁸ So how reliable is our memory? ¹⁹ There is, for instance, compelling evidence that eyewitness identifications are frequently inaccurate. When the actual perpetrator appears in a lineup along with several innocent fillers, witnesses fail to pick anyone out about a third of the time.²⁰ The impact of race. ²¹ Research suggests that people are 50 percent more likely to make an error in identifying a person from another race, although individuals who have a lot of contact with the other race tend to be more accurate.²² Great stuff on separating truth from untruth. ²³ Overall, it turns out that we are quite bad at ferreting out deception. In a recent analysis of more than two hundred studies, participants were able to

identify lies and truths correctly just 54 percent of the time, only marginally better than chance.¹⁶ An excellent chapter on judging.¹⁷ Although she was forced to retreat from her statements about how gender and ethnicity influence judging, Justice Sotomayor was right: identities and personal experiences do affect the facts that judges choose to see.¹⁸ So what drives us to punish?¹⁹ Indeed, there is a growing scientific consensus that it is a desire for retribution²⁰ "not deterrence or incapacitation" that has the strongest influence on why we punish.²¹ A look at prison life. Ugly facts. A country that abolished slavery 150 years ago now has a greater number of black men in the correctional system than there were slaves in 1850 and a greater percentage of its black population in jail than was imprisoned in apartheid South Africa. Black, male, and no high school diploma? It's more likely than not that you will spend time in prison during your life.²² Compelling arguments on what we can do to improve our society. The starting point of any reform comes in understanding and accepting this reality. We all need to look at the criminal justice system through new eyes. So, raising awareness about psychology and neuroscience research is critical.²³ Notes and a formal bibliography included. Negatives: 1. I have one main negative, the lack of links to notes. A real shame since I'm one of those readers who loves to dig deeper into the references. That being said, I've read and reviewed a number of books that makes references to such research and Benforado is on point. 2. Charts and diagrams would have complemented this excellent narrative. In summary, I absolutely loved this book! It has two of my favorite subjects fused into one, where science meets our criminal system and all that it implies. Benforado won me over with his mastery of this fascinating topic, great pacing, and excellent insights and dare I say judicial use of the best of our current science. It's been a while since I've read a book this good, kudos. I can't recommend this book enough. Further recommendations: *The New Jim Crow* by Michelle Alexander, *Uncertain Justice* by Laurence Tribe, *Thinking Fast and Slow* by Daniel Kahneman, *The Nine* by Jeffrey Toobin, *The Roberts Court* by Marcia Coyle, *Braintrust* by Patricia Churchland, *The Blank Slate* and *Better Angels of Our Nature* by Steven Pinker, *The Believing Brain* by Michael Shermer, *Subliminal* by Leonard Mlodinow, *We Are Our Brains* by D.F. Swaab, and *Are You Sure?* by Ginger Campbell.

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