

Congressman Raskin’s openness about Tommy’s illness, even in his professional life, is profound. He read Tommy’s note in one of his televised statements, “Please forgive me. My illness won today. Please look after each other, the animals, and the global poor for me. All my love, Tommy.”⁵ Later in his memoir, Mr. Raskin explains how these words helped him keep going even while he was despairing in his grief and on the state of the country.

On his way to the first day of the impeachment trial, he reflected,

This precious young man of boundless talent had given all his energy for the idea of the dignity and worth of all human beings—and all sentient beings. For Tommy, violence was the enemy of humanity and of all living things. The purpose of democracy and its operating system, the law, was to control, even to end, political violence, state violence, criminal violence, racial violence, gender violence, mob violence, the deliberate and needless infliction of pain and suffering on others. The purpose of democracy is to dignify and uplift each person on his or her path in life, to address misfortune as best we can, to make this life a gentler proposition (Ref. 1, p 311).

This same legal system is what allows us as forensic psychiatrists to work to strive for objectivity and to educate the triers of fact on mental illness.

In his memoir, Mr. Raskin also discusses the Twenty-Fifth Amendment and aptly explains why psychiatrists alone would not be helpful here. His analysis includes that psychiatrists opining on the President’s mental state would not be sufficient or relevant to assess the ability of the President to do his job. A fitness for duty examination of the President would also necessitate opinions from people who fully understand the job of President of the United States. Whether or not the President has mental illness, his call for a “seditious attack” made him unfit for office according to Mr. Raskin and the majority of his colleagues. In his analysis, Mr. Raskin agrees with the argument made by numerous psychiatrists, such as Jack Drescher, MD. In his article, “On the 25th Amendment and Donald Trump: Don’t Weaponize Psychiatry,”⁶ Dr. Drescher discusses the Goldwater Rule and warns us not to misuse psychiatry for political purposes and explains the history of this dangerous practice.

In summary, *Unthinkable* is a poignant, interesting read that covers the topics of suicide, ethics, democracy, and the law, and therefore will be of interest to many forensic psychiatrists.

References

1. Raskin J. *Unthinkable: Trauma, Truth, and the Trials of American Democracy*. New York, NY: Harper Perennial; 2022
2. Bersia M, Koumantakis E, Berchiolla P, *et al*. Suicide spectrum among young people during the COVID-19 pandemic: A systematic review and meta-analysis. *eClinicalMedicine*. 2022 Dec; 54: 101705
3. Hampton C. *The Son* [motion picture]. Zeller F, director. United States: Sony Pictures Classics; 2022
4. Andrade G. Medical ethics and the trolley problem. *J Med Ethics Hist Med*. 2019 March; 12:3
5. Petrow S. Like Tommy Raskin, I concealed my pain. Suicide prevention requires professional help. *USA Today* [Internet]; 2021 Jan 21. Available from: <https://www.usatoday.com/story/opinion/voices/2021/01/21/tommy-raskin-suicide-depression-help-column/4236343001/>. Accessed March 23, 2024
6. Drescher J. On the 25th Amendment and Donald Trump: Don’t weaponize psychiatry. *Psychiatric Times* [Internet]; 2020 Mar 1. Available from: <https://psychnews.psychiatryonline.org/doi/full/10.1176/appi.pn.2021.3.37>. Accessed March 24, 2024

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Criminal Testimonial Injustice

By Jennifer Lackey. Oxford, U.K.: Oxford University Press, 2023. 209 pp. \$80.00. E-book.

Reviewed by Alexis Glomski, DO, and Susan Hatters Friedman, MD

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Key words: testimony; injustice; eyewitness

In *Criminal Testimonial Injustice*, Jennifer Lackey guides the reader through testimonial injustices that occur from the beginning of the criminal process in the interrogation room to the final stages in front of parole boards and how they affect suspects, defendants, witnesses, and victims. Although the detailed explanations can be tedious and redundant, Lackey excels at connecting the practical and philosophical concepts through use of stimulating case examples.

Lackey describes “agential testimonial injustice” as occurring when the way that testimony is extracted bypasses, exploits, or subverts the defendant’s own agency, and yet that testimony is considered with an unwarranted excess of credibility. If another party is given undue credibility, that can also result in agential testimonial injustice to an individual because the individual’s own testimony is then regarded as less truthful by comparison. She uses cases of shaken baby syndrome to demonstrate the excess of credibility that is sometimes given to experts and describes how, in some cases, experts testify that an infant’s

presentation was shaken baby syndrome based on *ipse dixit* conclusions rather than medical science. Despite this, these experts still were granted unwarranted credibility and tended to be believed more than extensive evidence to the contrary.

In the introduction of the book, Lackey discusses a case of false confession and the case that inspired her to write this book. Demetrius Cunningham was a 15-year-old Black boy brought to the police station as a witness so that he could identify suspects in a lineup. He was separated from his father and interrogated for 12 hours by multiple white officers without an attorney present and ultimately confessed that he had murdered an elderly woman. He recanted his confession upon reuniting with his father. Despite a lack of physical evidence to connect him to the crimes, he was convicted and sentenced to 80 years in prison based largely on his false confession. Lackey dedicates a chapter to discussing false confessions and recantations, specifically the unwarranted excess of credibility given to confession and the criticism and dismissal of recantations.

Eyewitness misidentification remains the strongest factor contributing to wrongful convictions that are later proven to be erroneous by deoxyribonucleic acid (DNA) testing. Lackey introduces a thoughtful discussion of how the interrogation tactics that produce false confessions also produce false accusations. Like with false confessions, this testimony is then given excessive credibility despite knowledge about the tactics used and concerns about the reliability of eyewitness testimony as evidence. The well known case of Cathleen Crowell Webb is used to illustrate this. When she was 16, Ms. Webb accused Gary Dotson of abducting and raping her. Eight years later, she recanted her testimony and admitted that she fabricated the accusation, afraid of a possible pregnancy from another, consensual, sexual relationship. Despite this, the judge found her teenage trial testimony to be more credible than her recantation. Years later, Mr. Dotson would become the first person in the United States to be exonerated based on DNA evidence.

Lackey criticizes plea bargains for being coercive. One concept Lackey uses to demonstrate this is the “trial penalty” or the substantial difference between the sentence received when a defendant opts for a trial versus that offered through a plea deal. This is exemplified by the case of Eric Weakley and Michael Hash, who were teenagers accused of murdering an

elderly woman. Police pursued Mr. Weakley, who had a reputation as a follower and someone who could be easily intimidated, until his employer fired him. He submitted to a polygraph, which he failed. He then confessed to the murder. He was offered a plea deal to testify against Mr. Hash and plead guilty to second-degree murder, a charge that carried at most 20 years behind bars, or he could face life in prison. He took the deal and served just over six years in prison. In contrast, Mr. Hash rejected plea deals stating that he would not admit to something he did not do. He went to trial, was found guilty, and was sentenced to life in prison. Five years after Mr. Weakley’s release from prison, he formally recanted his confession and testimony against Mr. Hash. He stated, “All the information I gave at trial about the crime scene was given to me during interviews with police and prosecutors” (Ref. 1, p 128). Mr. Hash’s conviction was later voided; Senior U.S. District Judge James C. Turk cited “outrageous” police and prosecutorial misconduct (Ref. 1, p 128).

Lackey describes how biases and prejudice about race and gender both cause and exacerbate agential testimonial injustice. One striking example of this is that, contrary to the false confessions discussed earlier, the credibility of victims of sexual assault is discounted when they report the assault but elevated when they recant their report. Further, the credibility given to eyewitness testimony is greater when the suspect is Black and the even greater when the victim is White.

Finally, Lackey discusses how agential testimonial injustice occurs in the later stages of the criminal legal process, when admissions of guilt and expressions of remorse may be extracted from innocent individuals at sentencing and parole board hearings. Defendants may be instructed about what to say and how during allocution and in front of parole boards. The defendant is expected to admit guilt and express an appropriate amount of remorse. If these expectations are not followed, the defendant receives a harsher sentence.

In summary, many of the assertions in this book are not novel to those exposed to the criminal justice system, but the reader is given a fresh look at the way these testimonial injustices occur and their consequences. This book would be useful to forensic psychiatrists, other mental health professionals, attorneys, judges, and law enforcement personnel seeking to increase their understanding of biases.

References

1. Lackey J. *Criminal Testimonial Injustice*. Oxford, U.K.: Oxford University Press; 2023

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Baby Reindeer Review: The Interwoven Psyches of a “Stalker” and Her Prey

Developed by Richard Gadd. A Clerkenwell Films Production. Netflix. All seven episodes aired on April 11, 2024.

Reviewed by Karen B. Rosenbaum, MD

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Key words: stalking; violence; relationships; psychopathology; identity

The British dark comedy miniseries, *Baby Reindeer*, begins with a nervous young man at the police station confessing that he has a stalker who is a woman. The dubious police officer asks for evidence. The officer then asks the earnest victim, “How long has this been going on for?” Donny, played by Richard Gadd, replies, “I don’t know, like six months, maybe?” The confused officer then asks the obvious question, “Why did it take you so long to report it?” And then typewriter style words come on the screen, “This is a true story.” Donny narrates and dramatizes a version of his own personal story. While struggling to make it as a comedian, he works as a bartender in a pub and meets his “stalker.”

Donny confesses to the audience that the first feeling he had for Martha was that he felt sorry for her. He had insight that it was “patronizing” and “arrogant” to feel sorry for someone he had only seen for the first time. Martha, played by Jessica Gunning, is a heavy-set woman wearing unflattering clothes who cannot afford a cup of tea but brags incessantly that she is a high-powered attorney with her own practice, celebrity clients, and numerous friends.

Donny had been feeling demoralized as a person and a comedian as he consistently failed to get laughs and his career had not yet taken off. So when Martha begins showering him with attention and interest, he welcomes it at first. Donny finds her amusing. She talks about herself and then complements how

“manly” she thinks he is and describes in detail what she likes about his body. Through the levity of Martha’s ridiculous appearance and laugh, there is a foreboding feeling that something catastrophic is going to happen.

The story is told from Donny’s point of view, revealing in his narrative that he has thought about why and how he became so entangled with Martha. His friends notice his friendship with Martha and decide it would be hilarious to pretend that Donny fancied Martha. He makes a vaguely sexual joke to get out of the awkward scene, but Martha takes it seriously and believes that Donny is romantically interested in her. She starts emailing him multiple times per day and the tone of the emails becomes overtly sexual. She also begins calling him multiple nicknames, including “baby reindeer.”

From the first episode, Martha begins to have outbursts that are disconcerting to both Donny and the viewer. Donny knows that she is not who she says she is, but he eventually follows her home and discovers she lives in a depressing, cluttered, dirty motel room with her computer and not in the furnished penthouse that she bragged about buying while in the pub.

Martha discovers around this time that Donny’s career as a comedian is not going well. She comes to one of his shows and actually makes him look good at her own expense. Donny feebly attempts to make it clear that he is not interested in her romantically, but she does not take “no” for an answer and keeps upping the ante. She also listens to Donny and seems to understand him, and he enjoys it. Martha struggles with identity, and so does Donny. She tells Donny that she wishes she could unzip people and crawl inside of them. At the end of the first episode, Donny decides to perform a Google search on Martha and discovers she has had a long history of stalking men, including her boss, and even served a four-year prison sentence. While he is reading about her, Martha sends him a Facebook friend request. While accepting the friend request, he repeats over and over, “I had a convicted stalker stalking me.”

The viewer realizes that this story is about the pathology of both the narrator and the fictional character of Martha (see below). Donny lives with his ex-girlfriend’s mother after he and his girlfriend broke up and she moved out. He gradually reveals that he has been a struggling comedian and writer for some time. Five years prior, while performing in Edinburgh’s