

Prime-time television programs have one over-riding purpose – to garner high ratings in the target demographic audience of the program’s advertisers. Cutting through the fog of misplaced romantic notions, television programs are the filler intended to keep people entertained between the commercials. Why? Simple. Advertisers pay the bills.

In the fall of 2005 ABC began promoting *In Justice*, a new ABC series about a California based innocence project aiding wrongly convicted people.

Certainly sounded good. If it measured up to the exceptional television programs of the past that either directly or indirectly dealt with wrongly accused or convicted people, then it would be a treat. Those programs include *Perry Mason (1957-66)*, *The Defenders (1961-65)*, *Judd for the Defense (1967-1969)* and of course, *The Fugitive (1963-67)*. A common feature of those programs was a gritty realism.

*In Justice* premiered on January 1, 2006. Alas, the hope was soon dashed that it could be mentioned in the same breath with the just mentioned programs from the 1950s and 60s. *In Justice’s* producers have chosen to present a candy-coated view of the process by which untold numbers of innocent people are ensnared in a criminal prosecution and convicted, with only a few of them successfully winning their release. There is no grittiness in sight and very little realism. There is, however, an abundance of attractive shapely women and buff guys acting out absurd scripts.

The program’s distortions are legion.

Perhaps most disturbing is *In Justice* makes the process of successfully challenging a wrongful conviction seem as straightforward as ordering a pizza by phone. It’s as simple as 1-2-3! Find a witness to recant their perjurious testimony or find exclusionary forensic evidence, file a motion for a new trial, and abracadabra the innocent person is released lickety-split. All in a sixty-minute program, minus time for promos and advertisements.

Results like that is news to all the innocent people who toil for years putting a case together so they have a fighting chance to get back into court. A lay viewer of *In Justice* will be oblivious about the grim truth that in spite of the best efforts by supporters on the outside, only a small percentage of innocent people are successful at winning a new trial or dismissal of their charges. The overwhelming majority languish in prison with little hope.

*In Justice* also downplays the misconduct of police investigators or the inadequacy of their

## *In Justice*

ABC television network series.

Review by Hans Sherrer

initial investigation. In one episode it even had the police promptly re-opening their investigation of a case after they were provided with evidence the prosecution’s star witness didn’t tell them the truth. That storyline would be OK if *In Justice* was a black comedy or spoof, but it is presented as a drama.

Compounding the distortions about the role of police in a wrongful conviction, is that prosecutors are portrayed as valiant crusaders for truth. A prosecutor in one episode even risked her career by providing internal information to aid the innocence project’s lead investigator who was looking into the innocence claim of a convicted cop killer! Do you laugh at such a plot or do you shake your head in disbelief? Or both?

One scene is emblematic of *In Justice’s* disconnect from reality. The innocence project’s lead lawyer is tossed in jail for contempt after arguing too strenuously with the judge that a new trial should be granted to his client. (That is in itself inaccurate by projecting the false idea that a defense lawyer today would fight for his or her client by deliberately baiting a judge to the degree necessary to get tossed in jail for contempt. It is not realistic to think a lawyer will consciously risk his or her professional standing to help a client, especially a pro-bono or reduced rate client.) Then as the jailed lawyer is giving legal lessons to his fellow prisoners in an airy, sunlight filled, immaculately clean holding cell, a deputy brings a tray of coffee drinks the lawyer had ordered for everyone – a latte for this person, a mocha for that one, specialty tea for another, etc. What is wrong with that picture? To most viewers nothing at all. Since most Americans have not been arrested it fits right in with their idea that “criminals” are coddled. In the real world, however, holding cells are not airy and pleasant. Nor do they offer specialty coffee service by officers as eager to please as a Starbucks barista.

In contrast with that portrayal, holding cells are often nasty places occupied by people arrested for drunkenness, or who are coming down from a drug such as meth or heroin, or who are in an unpleasant mood after being arrested for a crime against a person or property. Instead of being Officer Friendly — the officers on duty are likely to have a no nonsense attitude. Reality is that one can expect a holding cell to be a thoroughly unpleasant and disheartening place. So *In Justice* couldn’t have gotten the jailed

lawyer scene more wrong if its producers had set out to deliberately misrepresent the truth.

*In Justice’s* inaccuracies are not trivial because the vast majority of its audience is unaware that what they are seeing is a television fantasy – not reality. So those people are being indoctrinated into thinking the legal system is like a self-righting ship: just inform the police, prosecutors and judge involved in a case after they respectively, investigated, prosecuted and presided over the conviction and sentencing of an innocent person, and they will spring into action to correct the “in justice.” Yeah right. Maybe in a parallel universe but not in this one.

Police, prosecutors and judges don’t initiate aiding a person claiming to be innocent, because if its true that means *they were wrong*. Big time. Experience has shown those within the legal system are loath to acknowledge responsibility for contributing to a wrongful conviction – even when it is apparent to open-minded people outside the system.

If one looks at the glass as half-full and takes the perspective that all publicity about a cause is good as long as the names get spelled right, then *In Justice* has been positive in promoting awareness of wrongful convictions. However, the half-empty view is that this country’s law enforcement personnel (including police, prosecutors and judges) involved in causing wrongful convictions breathed a sigh of relief when they learned that *In Justice* presents a generally positive portrait of the legal system. A view that is consistent with the one presented by *CSI*, *Law and Order*, and other shows of their ilk.

The probability that any television program will make it past one, or possibly two seasons is slim. Given those odds, the producers of *In Justice* don’t have anything to lose by going for broke and portraying the legal system as it really is. Instead they are presenting an *Alice in Wonderland* view consistent with the fantasy of how middle and upper America imagines the system functions. Yet they might find that they could keep advertisers satisfied by tapping into an audience hungry for honesty instead of another mind-numbing cops and courtroom TV program. By displaying some guts and imagination, *In Justice’s* producers might stumble into making a program that people will fondly remember forty years from now, instead of one that will only be known as the obscure answer to a trivia question.

Here are some off-the-cuff ideas for *In Justice’s* producers to consider. Reduce the saccharin level of the program by ratcheting up the factual accuracy of the scripts and relying on solid acting and not the eye candy

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**M**y name is Benjamin G. Kent. I am 26-years-old. The following events occurred in late 1991 and early 1992 when I was 12-years-old.

## The Anatomy Of A Sex Conviction Frame-Up The Alleged "Victim" Exposes The Lie

By Benjamin G. Kent

In December 1991, Bill L.\* was a Petty Officer Third Class assigned to Base Security at New York's Staten Island Naval Station. On December 17, 1991, Bill reported that one of his supervising officers was engaging in adultery, an imprisonable offense under the Uniform Code of Military Justice. That officer was my mother's boyfriend.

### The planning of a sex-crime frame-up

My dad was in the Navy and we lived in an apartment on the Staten Island base. Bill was in his early 20s, and he also lived on the base. My brother Joshua is a year younger than me, and we were not just friends with Bill, but we both thought of him as a big brother.

On the night of December 17, my mom and her boyfriend, William, told me that Bill had

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quotient of the actors. Another suggestion is to stop making the police, prosecutors and judges involved in a wrongful conviction look like decent, well-meaning folk. A wrongful conviction isn't an "opps we goofed" sort of mistake. It is a predictable consequence of the interaction of the police investigators, prosecutors and judge(s) who had a role in producing the erroneous conviction. Any one of those people could have stopped or at least impeded the injustice by saying No!, and either refused to cooperate or actually blown the whistle to the defense. Still another suggestion is to have episodes span two, three or even four shows in order to portray the grit of a wrongful conviction investigation, including the importance of involvement by family members, friends, journalists, and even strangers, to make an exoneration happen. Another avenue that could be pursued is to build on the program's opening sequence that portrays the prosecution's erroneous theory of the crime relied on by the jury that convicted the innocent person(s). How did the prosecution get it so wrong? What decisions by police investigators, prosecutors and the trial judge contributed to the creation of the fantasy crime scenario presented to the jury.

One thing is for sure. There is no shortage of ideas that could set *In Justice* apart and make it distinctive. *In Justice's* premise is promising. However, the open question is how long it can survive in its current format that lacks grit and guts, before it is relegated to the graveyard of canceled shows that had unfulfilled promise.



reported him. They also told me that I wouldn't be able to see Bill after he left the next day to spend the Christmas holiday at his parents home. My brother and I were also told by my mom and her boyfriend that when my parent's divorce was final we could be put in a foster home if my mom didn't get custody, since my dad was out to sea most of the time. The next morning (the 18th) my mom, her boyfriend and his friend, a Naval Investigative Service (NIS) agent, got to together and came up with a "story" that would discredit Bill's allegation that William was committing adultery with my mom. I was kept home from my last day of school before the Christmas holiday recess so that we could go over what I was to say as my part of the story.

Although I didn't think of it in those terms at the time, what my mom, her boyfriend and his Navy friends did was cook-up a conspiracy to use the military's court martial system to frame my friend Bill for sex crimes against me that never happened.

The scheme was conceived to start with my mom claiming to get an anonymous phone call from a woman telling her that she overheard me telling another boy that Bill sleeps and touches me sexually. My mom would then notify William, since he was an officer with base security. He would then notify his two friends, the base security chief and the NIS agent, who would initiate and be in charge of the investigation. I was told that my role was to deny the accusation, and then after being questioned I would cry and say that it happened. I would also need to have a medical examination (which turned out to be horrible), be interviewed by the New York State Victims Service Agency, and then testify in court about what I had been instructed to say.

### The frame-up in action

When I came in from playing outside on the 18th, I was confronted and questioned by William, the base security chief, and the NIS agent. They asked me if I told a friend that I was sexually touched by Bill. I told the officers "no." They then went into an adjoining room for a few minutes, and resumed questioning me when they returned. I kept on saying that nothing happened. The security chief and NIS agent would then tell me that something did happen and say things such as, "well didn't Bill do something like this" and they would show me by putting their hand on their leg and moving it towards their private area and rubbing their

privates. I kept on saying "no" but they kept on badgering me and insisting that it did happen. After a while I just said "yes" to get them off my back, and as had been planned for me to say. But they didn't leave. They continued their questioning by asking if Bill ever slept in my bed. I said "no." Disregarding my denials that I had ever been in bed with Bill, they asked if he ever touched me or if anything ever happened while I was in bed with him. Once again I said "no," but they kept on saying things like "did this happen," "did that happen," "did Bill ever do this while in bed with you," and so on. I answered "no" to all their questions. The officers left the room again for a few minutes. After they returned they asked me questions such as, "did Bill put his penis in your anus," "was the object against your back wet," and "did you notice if Bill had an erection?" I answered "no" to all the questions, but they kept on pressuring me and giving me examples. As had been planned, I eventually agreed to their example that Bill told me to get in bed with only my underwear on, that he did have an erection, and that I saw a wet spot on his underwear when I got out of bed. Next I was asked if Bill ever touched my privates while at his Bachelors Enlisted Quarters (BEQ) room, and just as before, I told them "no." I finally agreed with them, as I had been instructed earlier to do, that Bill touched me in his BEQ room and while driving in a car.

### Counselors told about the frame-up

That night I met with two counselors from the Victims Services Agency. The interview with the counselors was "confidential," or so I thought. When they asked me about the abuse, I told them the truth that nothing happened. When they asked me why I told base security that something happened, I told them that my mom told me to falsely accuse Bill and that her boyfriend and his Naval buddies were in on it.

After I had met with the counselors I never heard from or saw them again. This kind of confused me because I was hoping they could help Bill by testifying in court about what I told them. But they didn't testify. I later found out that what I told the counselors wasn't confidential. They weren't called as witnesses because their testimony would have exposed that Bill was being falsely prosecuted to cover-up William's adultery with my mom.

### Military prosecutor in on the frame-up

This brings me up to when I was interrogated by two military lawyers, the prosecutor and Bill's defense counsel. I say interrogated because the lawyers were more demanding than

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