

BOOK REVIEW

Flawed Convictions. 'Shaken baby syndrome' and the Inertia of Injustice

Tuerkheimer D. (2014). New York: Oxford University Press, ISBN 978-0-19-991363-3, US\$39.95, pp. 320.

Reviewed by Dr Frank Ainsworth, Senior Principal Research Fellow (Adjunct), School of Social Work and Human Services, James Cook University, Townsville campus, Queensland 4811, Australia.

doi [10.1017/cha.2014.49](https://doi.org/10.1017/cha.2014.49)

Every child protection caseworker, Children's Court lawyer, Children's Court magistrate and paediatrician in Australia must read this book. Written by a US Professor of Law, it reports on her meticulous research into the convictions of caregivers (parents and others) following the death of a child, allegedly as a consequence of the shaken baby syndrome (SBS).

The scientific history of SBS is traced, together with a close examination of the three symptoms – subdural haemorrhage, retinal haemorrhage and encephalopathy – that are said to constitute SBS. These are the symptoms relied upon by paediatricians when giving evidence in a criminal trial when a caregiver is accused of having shaken and thereby murdered a child.

In the book, these SBS symptoms are subjected to critical reassessment given new medical knowledge that calls into question their accuracy and reliability. This is a triad that has been described by a leading member of the Advisory Board of the US National Center on Shaken Baby Syndrome as 'a myth'. It is this evidence that is now under challenge, given that it was relied upon by prosecutors in a number of US trials which clearly led to a series of wrongful convictions.

Given the very different legal systems in the US and Australia, caution is needed in relation to the criminal justice outcomes documented in this book. Both systems do, however, require the same standard of proof in murder

trials; the prosecution must prove their case 'beyond reasonable doubt'.

This book is solely about parents or caregivers accused of the death of a child as a result of the child being shaken. However, evidence about SBS is used fairly frequently in child protection cases in Australia when harm has been done to a child, but where the death of a child is not the issue. Nevertheless, evidence about SBS can result in a child being removed permanently from parental care and being placed in state care. This may be an outcome of the lower standard of proof, namely 'on the balance of probabilities', as that is all that is required in child protection cases in the civil jurisdiction in Australia.

As this book shows, the evidence of paediatricians should not be easily accepted as proof of the wrongdoing of parents or others. In fact, medical evidence should be subjected to critical examination. This is why this book should be read by all the key professionals who are involved in child protection cases. Australia does not want to see wrongful or flawed decisions in these types of cases, as they may lead to permanent child removal or lengthy custodial sentences. This American evidence, and that from the Meadows case in England, should make for extreme caution by decision makers in cases in which evidence of SBS is a prominent feature.

The book ends with proposals for both legal and medical reforms, which may or may not be relevant to the Australian situation.